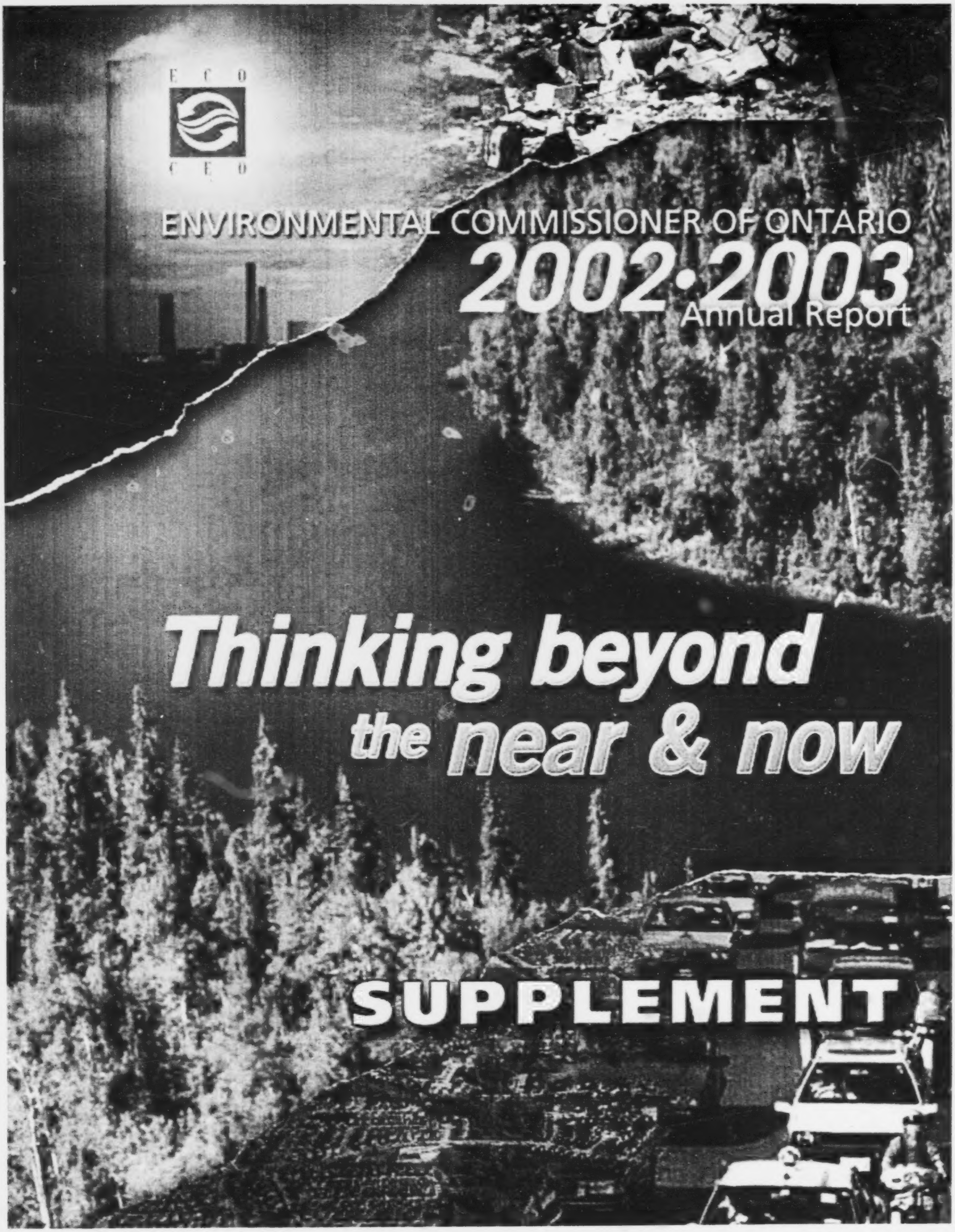

ENVIRONMENTAL COMMISSIONER OF ONTARIO

2002·2003
Annual Report

Thinking beyond the near & now

SUPPLEMENT

PREFACE: INTRODUCTION TO THE SUPPLEMENT ..... *v*

SECTION 1: ECO REVIEW OF UNPOSTED DECISIONS 1

MINISTRY OF THE ENVIRONMENT – POLICIES 1
MINISTRY OF THE ENVIRONMENT – INSTRUMENT 2
MINISTRY OF HEALTH AND LONG-TERM CARE – POLICY 2
MANAGEMENT BOARD SECRETARIAT – POLICY 3
MINISTRY OF NATURAL RESOURCES – POLICY 4
MINISTRY OF TOURISM AND RECREATION – POLICY 5
MINISTRY OF ENERGY – POLICY/ACT 5

SECTION 2: ECO REVIEW OF MINISTRIES' USE OF INFORMATION NOTICES 7

MANAGEMENT BOARD SECRETARIAT – POLICY 7
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING – REGULATIONS 7
MINISTRY OF NATURAL RESOURCES – POLICIES 9
MINISTRY OF NATURAL RESOURCES – REGULATIONS 12
MINISTRY OF NATURAL RESOURCES – INSTRUMENTS 13
MINISTRY OF NORTHERN DEVELOPMENT AND MINES – INSTRUMENTS 14
MINISTRY OF THE ENVIRONMENT – ACT 15
MINISTRY OF THE ENVIRONMENT – POLICIES 15
MINISTRY OF THE ENVIRONMENT – INSTRUMENTS 17
MINISTRY OF THE ENVIRONMENT – REGULATIONS 19
MINISTRY OF THE ENVIRONMENT – SPECIAL ANNOUNCEMENT 21
MINISTRY OF TRANSPORTATION – POLICIES 21

SECTION 3: ECO REVIEW OF MINISTRIES' USE OF EXCEPTION NOTICES 23

MINISTRY OF THE ENVIRONMENT – REGULATIONS 23
MINISTRY OF THE ENVIRONMENT – INSTRUMENTS 24
MINISTRY OF NATURAL RESOURCES – POLICY 25
MINISTRY OF NATURAL RESOURCES – REGULATIONS 26
MINISTRY OF THE ENVIRONMENT – INSTRUMENTS 26
MINISTRY OF THE ENVIRONMENT – ACT 27

SECTION 4: REVIEWS OF SELECT DECISIONS ON POLICIES, ACTS, REGULATIONS AND INSTRUMENTS 29

MINISTRY OF AGRICULTURE AND FOOD 29
  Nutrient Management Act, 2002 (Bill 81) *29*
MINISTRY OF ENERGY 39
  The Electricity Pricing, Conservation and Supply Act, 2002 (Bill 210) 39
MINISTRY OF THE ENVIRONMENT 47
  Canada – Ontario Agreement Respecting The Great Lakes Basin Ecosystem 47
  Budget Environmental Disposal Ltd.: Approval for a Waste Disposal Site 57
  Reporting Requirements – Sulphur Levels in Gasoline 60
  Waste Diversion Act, 2002 (Bill 90) 66
  Approval for Discharge into the Natural Environment other than Water 76
  Changes to Ontario's Air Quality Index 78

OslerBrook Golf & Country Club: Permit to Take Water ... 82
Brownfields Regulations ... 86
Ontario's Anti-Smog Action Plan: Progress through Partnership, 2002 ... 90
Safe Drinking Water Act, 2002 (SDWA) ... 96
Sustainable Water and Sewage Systems Act, 2002 ... 110
Strengthening Ontario's Hazardous Waste Management Framework ... 117
Fill Quality Guidelines for Lakefilling in Ontario ... 128
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING ... 134
Building Code Statute Law Amendment Act (Bill 124) ... 134
MINISTRY OF NATURAL RESOURCES ... 138
Year 3 of the Double-Crested Cormorant Research and Monitoring Program and Draft Management Strategy for Double-Crested Cormorants ... 138
Revised Free Use Policy – Public Lands Directive PL 3.03.01 ... 145
Proposal to Amend O. Reg. 667/98 (Trapping Regulation) ... 147
Heritage Hunting and Fishing Act, 2002 (Bill 135) ... 150
The Ecological Land Acquisition Program ... 154
Water Management Planning Guidelines for Waterpower ... 160
MNR's Community-based Land Use Planning for the Northern Boreal Initiative ... 168
Amendment to an Aggregate Site Plan ... 174
A Natural Heritage Strategy for the Ontario Ministry of Natural Resources Southcentral Region ... 176
MINISTRY OF NORTHERN DEVELOPMENT AND MINES ... 181
Notice of Issuance of Director's Order to File a Certified Closure Plan ... 181

SECTION 5: ECO REVIEWS OF APPLICATIONS FOR REVIEW ... 185

MINISTRY OF AGRICULTURE AND FOOD ... 185
Open Freshwater Netcage Aquaculture Operations – Nutrient Management ... 185
MINISTRY OF THE ENVIRONMENT ... 186
Regulations for Refillable Containers for Carbonated Soft Drinks ... 186
Classification of Chromium-containing Materials as Hazardous Waste ... 187
Policy Regarding the Use of Sound-Sorb ... 188
Need for New Waste Management Regulations for Transfer/Processing Sites ... 195
under the EPA ... 195
Need to Develop New Contaminated Site Guidelines ... 198
Regulatory Framework for the Release of Landfill Leachate to Waste Water Treatment Plants ... 200
EBR Exemption of Organic Soil Conditioning Sites ... 200
Septage Disposal Rules ... 203
Prescribing the Ministry of Finance under the EBR ... 206
Regulatory Regime relating to Logging Roads, Access Controls and the Preservation of Roadless Wilderness Areas ... 207
Open Freshwater Netcage Aquaculture Operations – Water Quality ... 208
Request that the Fish and Wildlife Conservation Act be Prescribed under the EBR ... 209
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING ... 210
Planning Act and Agricultural Land Conservation ... 210
MINISTRY OF NATURAL RESOURCES ... 214

Lakes and Rivers Improvement Act 214
Need to Classify the Eastern Wolf on MNR's VTEEE List and the Need for a Provincial Wolf Conservation Strategy 217
O. Reg. 328 under the Endangered Species Act to Expand the List of Species 222
Regulatory Regime relating to Logging Roads, Access Controls and the Preservation of Roadless Wilderness Areas 227
Open Freshwater Netcage Aquaculture Operations - Escapement 228
Request that the Fish and Wildlife Conservation Act be Prescribed under the EBR 228

SECTION 6: ECO REVIEWS OF APPLICATIONS FOR INVESTIGATION 231

MINISTRY OF THE ENVIRONMENT 231
Alleged OWRA, EPA and EAA Contraventions by Snow Valley Ski Resort through Road and Sewage System Construction 231
Alleged EPA Contravention (noise discharge) by Cook's Mill 232
Alleged Contravention of Class EA by Ontario Realty Corporation 235
Alleged EPA Contraventions at Township of West Grey's Bentinck Landfill 238
Alleged ARA, EPA and OWRA Contraventions by Sarjeant Aggregates 241
Alleged Contraventions related to Unauthorized Filling of Shoreline 243
Alleged EPA Contraventions by Safety-Kleen 246
Alleged EPA and OWRA Contraventions at Ashbridges Bay (combined sewer overflows) 249
Alleged Contraventions of MNR's Timber Class EA Clearcutting Restrictions 254
Alleged EPA Contravention by Burning of Toxic Material in Garage 259
Alleged EPA Contravention by SWARU 261
Alleged EPA Contraventions by Asphalt Plant 265
Alleged EPA Contraventions by an Auto Wrecker 266
Alleged Unauthorized Waste Disposal Site at Wigamog Inn, Haliburton 267
Alleged EPA and OWRA Contraventions at Genoe Landfill 268
Alleged Contraventions by Township of Severn's Proposed Westshore Water and Sewage Project 272
Alleged OWRA and Fisheries Act Contraventions through Mercury Emissions by Ontario Power Generation 274
Alleged OWRA and Fisheries Act Contraventions at Randle Reef, Hamilton Harbour 275
Alleged OWRA Contraventions of a Quarry Operation near Bracebridge 278
Alleged EPA and OWRA Contraventions by an Aluminum Smelter 283
Alleged OWRA Contravention by Improper Well Abandonment 286
Alleged EPA Contravention by Farmers Burning Tobacco Leaves 288
Alleged EPA and OWRA Contraventions by Sewage Flowing into Jock River 289
Alleged EPA and OWRA Contraventions by Volatile Organic Compound Discharges in East York, Toronto 289

MINISTRY OF NATURAL RESOURCES 291
Alleged ARA, EPA and OWRA Contraventions by a Gravel Pit Operator 291
Alleged Contraventions related to Unauthorized Shoreline Filling 294
Alleged Contraventions related to the Township of Severn's Proposed Westshore Water and Sewage Project 297
Alleged Fisheries Act Contraventions by Ontario Power Generation 299
Alleged LRIA Contraventions at Rocky Island Lake 301

Alleged FWCA Contraventions by a Hunting Outfitter *304*

SECTION 7: *EBR* LEAVE TO APPEAL APPLICATIONS **307**

SECTION 8: *EBR* COURT ACTIONS **319**

SECTION 9: CHRONOLOGY OF CHANGES TO PROVINCIAL POLICIES ON AGRICULTURAL LAND PROTECTION, 1970 – 2003 .... **323**

SECTION 10: UNDECIDED PROPOSALS **329**

PREFACE: INTRODUCTION TO THE SUPPLEMENT

The supplement to the 2002/2003 annual report consists of ten sections. The following summary contains highlights of each section and discusses the role of the Environmental Commissioner of Ontario (ECO) in reporting this information to the public.

Section 1 - Unposted Decisions

Under the *Environmental Bill of Rights* (*EBR)*, prescribed ministries are required to post notices of environmentally significant proposals on the Environmental Registry for public comment. When it comes to the attention of the Environmental Commissioner that ministries have not posted such proposals on the Registry, staff review those decisions to determine whether the public's participation rights under the *EBR* have been respected.

The ECO's inquiries on "unposted decisions" can lead to one of several outcomes. In some cases, the ministry responsible provides the ECO with a legitimate reason for not posting the decision on the Registry. For example, the decision may not be environmentally significant, it may have been made by a related non-prescribed agency instead of the ministry itself, or it may fall within one of the exceptions allowed in the *EBR*. In other cases, the ministry subsequently posts a regular notice on the Registry under Sections 15, 16, or 22 of the *EBR*. Finally, in certain cases, the decision may remain unposted, with the ministry taking the position that the particular decision does not meet the posting requirements of the legislation, and with the ECO disagreeing with that position. This section summarizes the ECO's tracking of potential unposted decisions and our findings on ministry responses to our inquiries. While decision-making in all prescribed ministries is reviewed, this year the ECO made inquiries by phone or by letter to officials in six ministries concerning potential unposted decisions. The ECO reports on these matters in Section 1 of this Supplement.

Section 2 - Ministries' Use of Information Notices

Significant differences exist between the requirements ministries must meet for regular proposal notices posted on the Environmental Registry under Sections 15, 16 or 22 of the *EBR* and information notices created under Section 6 of the *EBR*.

When regular proposal notices are posted on the Registry, a ministry is required to consider public comment and post a decision notice explaining the effect of the comments on the ministry's decision. The ECO reviews the extent to which the minister considered those comments when he or she made the final decision. The ministry is also obligated to consider its Statement of Environmental Values in its decision-making. This process is far superior to the posting of an information notice, and, where appropriate, provides greater public accountability and transparency.

However, in cases where provincial ministries are not required to post a regular proposal notice, they can still provide a public service by posting an information notice. These notices keep

Ontario's residents informed of important environmental developments. As presented in this section, six ministries posted information notices during the 2002/2003 reporting year.

Section 3 - Ministries' Use of Exception Notices

The *Environmental Bill of Rights* relieves the ministries of their obligation to post proposals for public comment in certain situations.

There are two main instances in which ministries can post exception notices instead of regular notices. An exception notice informs the public of a decision and explains why it was not posted for public comment.

Ministries are able to post an exception notice under Section 29 of the *EBR* when the delay in giving public notice would result in danger to public health or safety, harm or serious risk to the environment, or injury or damage to property (emergency exception). Ministries can also post an exception notice under Section 30 of the *EBR* when the proposal will be or has already been considered in another public participation process that is substantially equivalent to the requirements of the *EBR* (equivalent public participation exception).

During 2002/2003, two ministries posted exception notices. Section 3 summarizes the ECO's review of these notices.

Section 4 - Decision Reviews

Each year the ECO reviews a sampling of the environmentally significant decisions made by the provincial ministries prescribed under the *EBR*. During the 2002/2003 reporting year, more than 1,600 decision notices were posted on the Environmental Registry by Ontario ministries, most of them for site-specific permits or approvals. The extent to which the ECO reviews a ministry decision depends on its environmental significance and the public's interest in the decision.

This section of the annual report consists of detailed reviews undertaken by the ECO for 26 selected ministry decisions posted during 2002/2003.

Sections 5 & 6 - Application Reviews

Under the *EBR*, Ontario residents can ask government ministries to review an existing policy, law, regulation or instrument if they feel the environment is not being protected, and/or they can request ministries to review the need for a new law, regulation or policy (an application for review). The public can also ask ministries to investigate alleged contraventions of environmental laws, regulations and instruments (an application for investigation).

The ECO is responsible for reviewing applications for completeness, and for forwarding them to the appropriate ministry. Each reporting year the ECO reviews and reports on the handling and disposition of applications by ministries. Section 5 provides a summary of all the applications for review reviewed by the ECO in 2002/2003; section 6 provides a summary of all the applications for investigation which were reviewed by the ECO during the same period.

Section 7 - *EBR* Leave to Appeal Applications

Ontario residents have the right under the *EBR* to seek leave to appeal with respect to a decision on certain instruments of environmental significance within 15 days of a ministry's placing a decision on the Environmental Registry. The ECO is responsible for posting notice of a leave to appeal on the Registry and for updating the notice to report the decision of the appropriate appeal tribunal.

This section provides a summary of the leave to appeal applications under the *EBR* that were received within the 2002/2003 reporting year.

Section 8 - *EBR* Court Actions

Under Section 84 of the *EBR*, residents of Ontario have the right to bring a legal action against someone who is violating or is about to violate an environmental Act, regulation or instrument, and is harming, or about to harm, a public resource. In addition, anyone who suffers, or who may suffer, a direct economic loss or personal injury as a result of a public nuisance that caused harm to the environment may bring a legal action under Section 103 of the *EBR*. The ECO is responsible for posting notices of court actions on the Registry for information purposes only.

This section provides a summary of court action activities that took place during the 2002/2003 reporting year. There were no whistle-blower complaints under the *EBR* during the reporting year.

Section 9 – Chronology of Changes to Provincial Policies on Agricultural Land Protection, 1970 – 2003

This section contains a description of the changes made to provincial policies on agricultural land protection between 1970 and 2003. The chronology provides background to the application for review on agricultural land conservation law and policy in Ontario found on pages 131-133 of the ECO 2002/2003 annual report.

Section 10 - Undecided Proposals

The ECO is required under Section 58(c) of the *EBR* to report annually on all proposals posted on the Environmental Registry within the reporting period (April 1, 2002 to March 31, 2003) that have not had a decision notice posted. This section provides a summary of all such undecided policy, Act, regulation and instrument proposals by ministry.

SECTION 1

ECO REVIEW OF UNPOSTED DECISIONS IN 2002/2003

SECTION 1: ECO REVIEW OF UNPOSTED DECISIONS

Ministry of the Environment – Policies

Selected Target for Air Compliance (STAC) program

Description

- In November 2002, the ECO became aware of the Ministry of Environment's (MOE) new STAC program. The STAC program audits how well major facilities comply with Point of Impingement (POI) air standards in Regulation 346, targeting a number of facilities in key sectors. The intent of the program is to ensure that neighbouring communities are not exposed to exceedances of regulated air contaminants. The program first started as a pilot project in 1997-98 and has more recently become a formalized program. MOE did not consult on STAC via the Registry p4rior to the implementation of the program (both the pilot and the formalized program).
- On December 13, 2002, the ECO sent MOE a letter to indicate that it believed that MOE should have posted notice of the program on the Registry for comment. The letter requested that MOE provide the ECO with information on: how it determined the environmental significance of STAC; how the ministry's Statement of Environmental Values was considered during the decision-making process; why MOE failed to post the program on the Registry; and whether MOE had undertaken any other public consultation on the development of the program and if so, what this consultation involved.

Ministry Rationale

- In its response in May 2003, MOE stated that it disagrees that the program should have been posted on the Registry. It stated: "STAC is not based on any new policy or regulatory authority, as STAC requests are made under the authority granted to Provincial Officers in section 156 of the Environmental Protection Act. As such, when the pilot program was implemented, a determination was made that the program was predominantly administrative in nature, supplements compliance activities and is not subject to the notice and comment requirements of the *EBR*, in accordance with subsection 15(2)."

ECO Comment

- The ECO finds MOE's explanation misleading and continues to maintain that a proposal for the program should have been posted on the Registry for comment. It is the ECO's understanding that the assessment and modeling work the program entails would involve engineering and technical MOE staff, most of whom are not Provincial Officers. The ECO continues to believe that the program is environmentally significant - the ministry has reported that about 90 per cent of the facilities audited to date had never checked if they were complying with Regulation 346, and that about 40 per cent of those facilities audited were not complying with the POI standards of Regulation 346.
- The ECO believes that the program is a very positive step to improve the compliance of major facilities with POI air standards. Given the environmental significance associated with the program, MOE should have posted a policy proposal on the Registry for public comment. Section 15(1) of the *EBR* requires a minister to do everything in his or her power to give notice of a proposed environmentally significant Act or policy to the public at least thirty days before the proposal is implemented. The *EBR* also states: "policy means a program, plan or objective…" Programs that have positive environmental impacts are also environmentally significant.

Energy Initiatives

Description

- In a media release issued by the Ministry of Energy (ENG) on November 12, 2002, the government announced its intention to raise the threshold for the environmental approvals exemption for clean generation to 100 MW.
- The ECO contacted the MOE on February 20, 2003 to inquire into the status of the revisions of their proposal. MOE made note of the ECO's inquiry and indicated it would respond at a later date. Having not

received a response from MOE, the ECO contacted MOE again on April 16, 2003. On May 1, 2003 MOE indicated that it was still working on its reply.

Ministry Rationale

- As of May 27, 2003 MOE had not responded.

ECO Comment

- If MOE plans to make revisions to the Environmental Assessment Regulations for energy producers (O. Reg. 116/01) then the ministry should post a proposal.

Ministry of the Environment – Instrument

Approval for Waste Processing/Transfer Site

Description

- In January 2003, the ECO became aware of an appeal to the Environmental Review Tribunal of an amended Certificate of Approval issued to a private company for a waste processing/transfer site.
- The amendment imposed requirements for the estimation and submission of financial assurance under the *Environmental Protection Act*.
- The appeal to the Environmental Review Tribunal was subsequently withdrawn.
- In May 2003, the ECO contacted MOE to determine why this approval had not been posted on the Registry.

Ministry Rationale

- In May 2003, MOE responded that the amendment to the approval was not posted on the Registry because it only concerned financial assurance and was not expected to have any impact on the environment.

ECO Comment

- The ECO accepts MOE's rationale that this amendment was not environmentally significant.

Ministry of Health and Long-Term Care – Policy

Role of public health inspectors in routine water sampling in rural areas

Description

- On November 30, 2002, a representative of an organization of public health inspectors wrote the ECO to express concerns about water sampling in rural areas in Ontario. The letter was copied to other officials, including the Minister of Health and Long-Term Care and the Chief Medical Officer of Health. ECO staff clarified the individual's concerns in a phone conversation on December 10, 2002.
- The individual stated that the Ministry of Health and Long-Term Care (MOHLTC) had instructed public health inspectors not to conduct any sampling at private water systems that are not caught by either O. Reg. 459 or O. Reg. 505. The waterworks of concern include those that do not supply more than 50,000 litres per day, or are not capable of supplying 250,000 or more litres per day and serve facilities frequented by the public, such as restaurants, camps and resorts. According to the individual, public health inspectors were instructed to only advise and consult with private water system owners, who are responsible for their own water sampling.

Ministry Rationale

- On December 24, 2002, the Chief Medical Officer of Health responded to the individual in a letter. The letter stated that the role of health units and public health inspectors in the context of routine water sampling would be dealt with through the review of the Safe Water Mandatory Program (SWMP), underway at the time that the letter was written. The letter also indicated that MOE has proposed a new drinking water protection regulation under the *Safe Drinking Water Act*. The proposal for the regulation was posted on the Registry on January 14, 2003 for a 60-day comment period. A decision notice for the regulation was posted on May 5, 2003. The regulation essentially consolidates the requirements of O. Reg. 459 and O. Reg. 505 and extends them to other drinking water systems, including smaller residential and commercial systems.

- On February 14, 2003, ECO staff contacted a member of the Chief Medical Officer of Health's staff to get further information on the role of health units and public health inspectors. The staff member informed the ECO that public health inspectors must ensure that water is potable by taking water samples from rural water systems serving restaurants. The staff member also told the ECO that, once the proposed drinking water protection regulation is finalized, MOHLTC will determine how to proceed with its review of the SWMP.
- On July 23, 2003, MOHLTC informed the ECO that the SWMP has undergone a multi-stakeholder technical review. The ministry stated: This review is intended to clarify the roles and responsibilities concerning water sampling, and to eliminate any confusion that currently exists concerning the role of public health inspectors in the area of water sampling." The ministry indicated that it expected that the details of the review would be finalized in the summer of 2003, and that they would be posted on the Environmental Registry for public comment at that time.

ECO Comment

- The ECO commends MOHLTC for taking steps to clarify the roles and responsibilities concerning the role of public health inspectors in rural water sampling and for committing to post notice of the outcome of the review of the SWMP on the Registry for public comment. The ECO urges the ministry to post this notice prior to the implementation of any changes.

Management Board Secretariat – Policy

Energy-related government greening initiatives

Description

- The Ministry of Energy (ENG) issued two media releases - one on November 13, 2002, the second on December 27, 2002 - which outlined four energy-related initiatives the government planned to undertake in order to green its own operations. The November media release described government plans to: (1) reduce energy consumption in government buildings by 10%; (2) purchase 20% of the government's electricity usage from renewable sources; and (3) ensure that every newly constructed government and other institutional buildings is energy self-sufficient, using alternative or clean sources of energy. The December news release outlined the government's intention to: (4) work towards establishing a policy framework dealing with the development of wind power sites on Crown land.
- On February 21, 2003 the ECO contacted the Management Board Secretariat (MBS) to request a description of the initiatives, their status and the ministry's involvement in them, as well as an indication of whether MBS intends to post notices pertaining to them on the Registry and if so, when.

Ministry Rationale

- On March 14, 2003, MBS sent the ECO a letter that provided a detailed response to the ECO's inquiries.
- MBS indicated that it is actively involved in the first three initiatives listed above, but not in the fourth. The ministry stated that ENG is leading policy development on initiatives 1 and 2. MBS is involved in developing the action plan for initiative 1 and is working with ENG to develop and implement the procurement process for initiative 2. MBS has assumed the lead, in co-operation with the Ontario Realty Corporation (ORC), MOE, the Ministry of Enterprise, Opportunity and Innovation (MEOI) and others, on initiative 3.
- MBS conveyed that all three of the initiatives were in the planning phase at the time of writing. MBS did, however, commit to seeking advice from senior management at ENG about posting initiatives 1 and 2 on

the Registry once planning is complete. It also expressed its intention to seek advice from senior management at MBS about posting initiative 1.

ECO Comment

- The ECO urges MBS to post policy proposals for the initiatives it is involved in on the Registry once planning is complete, and before they are implemented.
- Please refer to the ENG and MOE portions of this section for discussions of the above-mentioned and other energy-related initiatives, and the involvement of these ministries in them.

Ministry of Natural Resources – Policy

Updating the Ministry of Natural Resources' (MNR) List of Vulnerable, Threatened, Endangered, Extirpated or Extinct (VTEEE) Species of Ontario

Description

- In September 2002, MNR updated and revised Ontario's VTEEE list. The VTEEE list includes two columns which formally list all species designated as vulnerable (or of special concern), threatened, endangered, extirpated or extinct in Ontario - one by the national Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and another by Ontario's MNR. The ministry updates and revises the list at least once a year to reflect new information. The ministry did not post notice of the changes made on the Registry.
- In February 2003, the ECO contacted MNR to inquire why the MNR had not invited public comment via the *EBR* on the update.

Ministry Rationale

- In February 2003, MNR informed the ECO by email that the changes were not posted on the Registry because they were considered administrative in nature. The ministry stated that it had only updated the COSEWIC column to reflect the most current COSEWIC status of species and that no changes were made to the status of species in the MNR column.

ECO Comment

- While the ECO agrees that the change was administrative in nature, it is concerned that the VTEEE list does not reflect the most recent COSEWIC list. In November 2002, COSEWIC revamped its list. For example, COSEWIC's numbers of endangered species in Ontario went from 52 to 56, a change which is not reflected in MNR's current VTEEE list. As MNR holds membership in COSEWIC, the ministry should have known that this change was going to happen.
- Moreover, in Spring 2002, MNR informed a member of the public that it would upgrade the status of the eastern wolf from "indeterminate" to "vulnerable" in the next update of the list. MNR did not make this change. For further discussion of this please refer to pages 139-143 in this year's annual report and pages 218-223 in this year's supplement.
- For further discussion of species at risk please refer to pages 134-138 in this year's annual report and pages 223-228 in this year's supplement.

Ministry of Tourism and Recreation – Policy

Tourism Strategy Stakeholder Consultations

Description

- In early March 2003, the ECO came across a media release issued by the Ministry of Tourism and Recreation (MTR) on November 29, 2002 that announced that the government would be holding consultations with tourism industry leaders. The consultations were intended to help shape a five-year tourism strategic plan and were to be held across Ontario over the following three months.
- The discussions were to be guided by a discussion paper entitled "Tourism Strategy Stakeholder Consultations, Fall 2002", which was available on the ministry's website. The discussion paper included a section entitled "The growth and development of Ontario's tourism industry will be sustainable" and a series of related questions. MTR's website encouraged written comments on the discussion paper and indicated the branch and the contact to whom they should be directed.
- The ECO contacted MTR on March 19, 2003 to ask whether the consultations were still underway and into whether MTR intended to post the tourism policy developed out of the consultations on the Registry.

Ministry Rationale

- MTR responded to the ECO's inquiry on March 27, 2003, indicating that the consultations on the strategy were complete. The ministry also indicated that the policy might not go forward, but would likely be posted if the project continues.

ECO Comment

- MTR could have performed an important public service by posting an information notice on the Registry in November 2002 to inform the public of the stakeholder consultations.
- ECO encourages MTR to post the tourism policy on the Registry as an information notice once it is complete and before it is implemented.

Ministry of Energy – Policy/Act

Description

- In a series of news releases and backgrounders issued between October 2002 and January 2003, the Ministry of Energy (ENG) announced a number of energy-related initiatives that the government is undertaking or planning to undertake. The initiatives include: (1) a proposal to raise the threshold for the environmental approvals exemption for clean generation to 100 MW; (2) a proposal to establish a Renewable Portfolio Standard (RPS) for Ontario; (3) a variety of government greening initiatives including goals for electricity conservation, procurement of green electricity, building design and Crown land wind power development; and (4) a decision to launch a review of the mandate of the Ontario Energy Board (OEB).
- On February 19, 2003, the ECO contacted ENG to inquire into the status of the four initiatives listed above.

Ministry Rationale

- ENG informed the ECO that MOE is dealing with initiative (1) listed above and that MBS is dealing with the initiatives listed under (3). The ministry also stated that the OEB (and, therefore, initiative (4)) does not fall within the purview of the *EBR*.
- ENG stated that it intended to be liberal in posting all of its new energy-related initiatives on the Registry. It noted that the Parliamentary Assistant to the Minister of Energy would be consulting with stakeholders prior to developing the new RPS. In order to create the RPS, new legislation would be required. ENG indicated that the proposed new act would likely be posted on the Registry.
- ENG also informed the ECO that it would be posting notices pertaining to other energy initiatives such as environmental labelling and tracking regulation, net metering and energy efficiency

standards revisions. ENG posted a proposal for an environmental labelling and tracking regulation on March 21, 2003 (RO03E0001).

ECO Comment

- The ECO urges ENG to post proposals for all of its energy-related initiatives, including the new RPS legislation, once planning is complete and before the initiatives are implemented.
- For further information on MOE's Guide "Environmental Assessment Requirements for Electricity Projects" please refer to pages 89-91 of the ECO's 2001/2002 annual report.
- Please refer to the MBS and MOE portions of this section for a discussion of these and other energy-related initiatives.

SECTION 2

ECO REVIEW OF MINISTRIES' USE OF INFORMATION NOTICES IN 2002/2003

SECTION 2: ECO REVIEW OF MINISTRIES' USE OF INFORMATION NOTICES

Management Board Secretariat – Policy

Government Business Plans
***EBR Registry* #**: XN02E2002

Description

- MBS posted the notice to inform the public that Ontario government ministries released their 2002/2003 Business Plans that outline the ministries' core businesses, the government's goals for the 2002/2003 fiscal year and strategies to meet those goals. This is the sixth year that the Management Board Secretariat (MBS) has done these type of notices.

ECO Comment

- Acceptable use of an information notice – ministry business plans are administrative in nature and therefore are not required to be placed on the Registry.
- Ministries are not required to post Business Plans on the Environmental Registry for comment.
- The business planning process is an ongoing one, and although the posted plans are final, public comments are considered by ministries as part of the annual Business Plan revision process.
- MBS provided a 57-day comment period. Please refer to pages 23-24 of this year's annual report regarding ministries' use of information notices to seek public comment.

Ministry of Municipal Affairs and Housing – Regulations

Ontario Regulation 90/02, Amendment to Provincial Regulation made under Section 70.2 of the *Planning Act* (Development Permit System)
***EBR Registry* #**: RF02E3003

Description

- This notice advises the public that O.Reg. 90/02 was passed to amend O. Reg. 246/01, which enables five pilot municipalities to implement the Development Permit System (DPS) in the areas described in the Regulation (schedule 1).
- The DPS is a new planning tool which streamlines the planning approvals process by combining three existing approvals – zoning, site plan and minor variance – into one seamless process.
- O. Reg. 90/02 adds the "Muskoka River" to the pilot area for the Township of Lake of Bays described in Schedule 1 to O. Reg. 246/01. While the Ministry and the Township had originally agreed to include the river in the schedule, it was inadvertently omitted when O. Reg. 246/01 was promulgated.

ECO Comment

- Acceptable use of an information notice.
- Ministry of Municipal Affairs and Housing (MAH) posted the DPS as a regular notice in 2001 and it was reviewed in the ECO Supplement, 2001/2002.

Minister's Zoning Orders
***EBR Registry* #s**:

RF02E2001	- O. Reg. 177/02 amending O. Reg. 834/81 made under the *Planning Act* – District of Sudbury
RF02E4008	- O. Reg. 210/02 amending O. Reg. 256/99 made under the *Planning Act* – District of Thunder Bay
RF02E0002	- O. Reg. 168/02 amending O. Reg. 104/72 made under the *Planning Act* – Town of Markham
RF02E0004	- O. Reg. 260/02 amending O. Reg. 102/72 made under the *Planning Act* – Town of Pickering

RF02E0003 - O. Reg. 241/02 amending O. Reg. 482/73 as previously amended by 547/80 made under the *Planning Act* – City of Burlington

XF02E2001 - O. Reg. 289/02 amending O. Reg. 834/81, made under the Planning Act District of Sudbury

Description

- Minister's zoning orders are regulations that allow the minister to control land use in areas without municipal organization or in areas where the provincial government has an interest.

ECO Comment

- Acceptable use of information notices.
- Minister's Zoning Orders are not prescribed under the *EBR*

"Designation of Oak Ridges Moraine Area" being Ontario Regulation 01/02 made under the *Oak Ridges Moraine Conservation Act,* 2001

***EBR Registry* #:** XF03E0001

Description

- MAH posted this notice in March 2003 to inform the public of its decision, taken in January 2002, to pass Ontario Regulation 01/02 under the *Oak Ridges Moraine Conservation Act (ORMCA).*
- Ontario Regulation 01/02 defines the area within which the policies of the Oak Ridges Moraine Conservation Plan may apply and identifies the affected municipalities within the Oak Ridges Moraine area. It also identifies the locations of the maps for public inspection.

ECO Comment

- Acceptable use of an information notice. While MAH has committed to prescribing the *ORMCA* under the *EBR* for the purpose of posting proposals for regulations, the act had not been prescribed as of April 2003.
- For further information on the *ORMCA* and Plan, please refer to pages 72-79 of the ECO's 2001/2002 annual report and pages 123-133 of the ECO's 2001/2002 supplement.

"Oak Ridges Moraine Conservation Plan" being Ontario Regulation 140/02 under the *Oak Ridges Moraine Conservation Act,* 2001

***EBR Registry* #:** XF03E0002

Description

- MAH posted this notice in March 2003 to inform the public of its decision, taken in April 2002, to pass Ontario Regulation 140/02 under the Oak Ridges Moraine Conservation Act (ORMCA).
- O. Reg. 140/02 establishes the Oak Ridges Moraine Conservation Plan. The plan is an ecologically-based land use plan that protects natural and water feature, preserves agricultural lands and limits development to approved areas.

ECO Comment

- Acceptable use of an information notice. While MAH has committed to prescribing the *ORMCA* under the *EBR* for the purpose of posting proposals for regulations, the act had not been prescribed as of April 2003.
- For further information on the *ORMCA* and Plan, please refer to pages 72-79 of the 2001/2002 annual report and pages 123-133 of the ECO's 2001/2002 supplement.

Ministry of Natural Resources – Policies

State of the Forest Report, 2001
***EBR Registry* #:** PB02E7003

Description

- MNR posted this notice in June 2002 to inform the public of the publication of The State of the Forest Report, 2001.
- The State of the Forest Report, 2001 provides information about Ontario's forests for the period 1995 to 2000. It overviews Ontario's forest regions, the managed forests, industrial wood supply, the legal and policy requirements for state of the forest reporting, and the provincial, national and international context for criteria and indicator reporting and forest sustainability evaluation.
- The posting indicated that the report was available in paper and compact disc formats through MNR information centres and that it is downloadable from the ministry's website.

ECO Comment

- Good use of an information notice.

Place-based Watershed Management Pilot
***EBR Registry* #:** PB02E6014

Description

- MNR posted the notice in July 2002 to inform the public that six pilot watershed management demonstration projects had been initiated. MNR is undertaking the projects on behalf of MOE and in conjunction with Conservation Authorities and Stewardship Councils. It expects to complete them in April 2003.
- The objectives of the projects are to reflect a diversity of watershed characteristics and related development densities; draw on local participation and local agencies; ensure transparent public access to a broad range of information and data as well as public involvement in the pilots themselves and/or their products; apply the results in a practical manner; and ensure benchmarks for success and monitoring of results.

ECO Comment

- Acceptable use of an information notice.
- MNR committed to updating the notice as new information becomes available. As of early April 2003 the notice had not been updated.

Amendment to the Ontario Wetland Evaluation System, Southern and Northern Manuals
***EBR Registry* #:** PB02E6011

Description

- MNR first posted this notice in July 2002 to inform the public of a number of amendments to the Ontario Wetland Evaluation System (OWES). MNR posted an update on the notice in February 2003 to inform the public that it had made some editorial and formatting changes to the OWES manuals.
- The OWES is a process to identify and evaluate the relative values of wetlands and determine if they are provincially significant, according to the 1996 Provincial Policy Statement (PPS) which was issued under the *Planning Act*.
- One of the changes made requires that threatened species be scored the same as endangered species under the evaluation system. The notices describe the amendments as administrative and as minor clarifications to the way that rare species are scored. MNR indicated that it anticipates that the provincially significant status would change for only a relatively small number of wetlands.

ECO Comment

- In a letter to MNR in October 2002, the ECO expressed its concern that the notice was not posted as a regular policy proposal (and therefore not afforded consultation benefits). The ECO acknowledged that some of the amendments to the evaluation system are administrative in nature. However, the ECO stated that the decision to alter the scoring process for wetland evaluation in a way that changes the determination of environmental significance constitutes an environmentally significant decision, even if such an amendment will change the designation of only a small number of wetlands.
- In a response to the ECO in November 2002, MNR stated that the changes to the status of specific wetlands resulting from the scoring of rare species in the OWES manual do not constitute a policy change. The ministry indicated that the amendment brought the manuals in line with policy articulated in the PPS, noting that wetland manuals are subsidiary documents to the PPS.
- The ECO accepts MNR's position and the use of an information notice for the manuals.
- For more information about the consultation benefits afforded the public by the posting of a regular notice, please refer to pages 23-24 of this year's annual report.

Ontario Low Water Response, 2002
***EBR Registry* #:** PB02E6020

Description

- MNR posted this notice in August 2002 to inform the public that it had made some revisions to the Ontario Low Water Response, 2001 in June 2002. The Ontario Low Water Response is a document which outlines Ontario's response to drought emergencies. It ensures provincial preparedness, assists in co-ordination of provincial and local efforts and supports local response in the event of a drought. The changes to the document were considered to be administrative by MNR.
- The decision notice for the Ontario Low Water Response, 2001 was posted on the Environmental Registry in July 2001 (PB00E6011).

ECO Comment

- Acceptable use of an information notice.

Submission to the Minister of the Environment and Energy of "A Review by the Ministry of Natural Resources Regarding the Class Environmental Assessment for Timber Management on Crown Land in Ontario (MNR's Timber Class EA Review)"
***EBR Registry* #**: PB01E7004

Description

- In December 2001, MNR published a paper which overviewed its proposals for changing the Class Environmental Assessment (Class EA) Approval process for timber management on crown landsh in the province ("A Paper for Public Review Concerning the Extension and Amendment of the *Environmental Assessment Act* Approval for Forest Management on Crown Lands in Ontario"). MNR posted the paper on the Registry as an information notice with a 60-day comment period. (The paper was reviewed by the ECO in the supplement to the 2001/2002 annual report, pages 12-13).
- On July 17, 2002, MNR submitted its final review of the Class EA to MOE. MOE posted MNR's proposed amendments on the Registry as an information notice (PB01E7004) for a 60-day comment period. The proposed amendments to the Class EA focused on four general themes:
    - improving the planning process and providing needed flexibility;
    - updating the approval to address the current responsibilities of the forest industry;
    - enabling continuous improvement;
    - providing for continuing programs.
- The July 17, 2002 information notice was updated in September 2002 to inform the public that MOE was granting an additional 30-day comment period on the proposed amendments.

- In January 2003, MOE posted an information notice indicating that it had extended the Class EA until July 17, 2003 (XA03E0001, reviewed below). The extension was to apply in the event that amendments are not approved by May 18, 2003.
- In March 2003, MOE posted a proposed Declaration Order to amend the Class EA, as a regular notice with a 30-day comment period (RA03E0004).

ECO Comment

- Acceptable use of an information notice.
- Please refer to pages 23-24 of this year's annual report regarding ministries' use of information notices to seek public comment.

Aquatic Ecosystem Guidelines for Water Management Planning (AEG)

***EBR Registry* #:** XB02E6001

Description

- MNR issued this information notice in October 2002 to inform the public that it had prepared Aquatic Ecosystem Guidelines (AEGs) - an appendix to accompany its Water Management Planning Guidelines (WMPGs) for Waterpower - and to solicit public input on the guidelines.
- AEGs provide guidance to protect and enhance the aquatic ecosystem during water management planning.
- MNR developed WMPGs to address the issues associated with the operation of waterpower facilities and water control structure in a comprehensive way. MNR posted its WMPGs as a policy proposal.

ECO Comment

- Unacceptable use of an information notice. It is the ECO's opinion that the AEGs are environmentally significant.
- For more information about the consultation benefits afforded the public by the posting of a regular notice, please refer to page 23 of this year's annual report.
- For more information on the WMPGs, please refer to pages 108-112 of this year's annual report and pages 161-168 of this year's supplement.

Discussion paper – Towards Enhanced Forest Productivity

***EBR Registry* #:** XB02E7001

Description

- MNR posted this notice in December 2002 to inform the public that it had published a discussion paper, "Towards Enhanced Forest Productivity", and to seek public input on the contents of the paper. The notice grants a 45-day period for comments.
- The discussion paper, which was prepared by MNR's Enhanced Forest Productivity Subcommittee (comprised of industry and environmental stakeholders and provincial government), issues a series of recommendations pertaining to intensive forest management and the security of wood supply.

ECO Comment

- Acceptable use of an information notice.
- Please refer to pages 23-24 of this year's annual report regarding ministries' use of information notices to seek public comment.

Nuisance Bear Review Committee Requests Public Input
***EBR Registry* #:** XB03E4001

Description

- MNR posted this notice in February 2003 to seek public input to its Nuisance Bear Review Committee's review of the nuisance bear issue.
- The ministry sought comments in the areas of: bear biology; geographical factors; socio-economic factors; harvesting factors; and policies, programs and education campaigns dealing with bear management issues.
- The notice indicated that the comments would be considered by the committee in the development of a report, with recommendations, for the Minister.

ECO Comment

- Acceptable use of an information notice. The ECO encouraged MNR to post an information notice for the review.

Ministry of Natural Resources – Regulations

Proposal to Ban the Importation of Leeches into Ontario, January 1, 2004 under the Ontario Fishery Regulations (OFR)

EBR Registry #: RB02E6002
Description

- MNR posted this notice to consult on the implementation of a complete ban on the importation of leeches into Ontario on January 1, 2004. The ban is intended to prevent the introduction of exotic species into Ontario waters.
- A ban on the importation of leeches for non-commercial purposes was put in place in 1999. Licensed dealers and harvesters were allowed to continue importing leeches under a set of protocols developed by MNR and the industry until a complete ban was in place.

ECO Comment

- Acceptable use of an information notice.
- The federal *Fisheries Act* and its regulations are not prescribed under the *EBR* for the purpose of giving notice of proposals on the Registry.
- MNR provided a 78-day comment period through this information notice. As noted on pages 23-24 of this year's annual report, ministries can inform the public in the text of the notice about consultation opportunities, instead of formally seeking comments through an information notice.

Lake Trout Regulation Changes on Big Vermilion Lake, Sioux Lookout District
***EBR Registry* #:** XB03E6001

Description

- MNR posted this notice to consult on proposed recommendations to reduce the harvest of lake trout from Big Vermilion Lake. The objective of the recommendations is to ensure a sustainable fishery, while at the same time maintaining angling opportunities.

ECO Comment

- Acceptable use of an information notice.
- The federal *Fisheries Act* and its regulations are not prescribed under the *EBR* for the purpose of giving notice of proposals on the Registry.
- MNR provided a 33-day comment period. As noted on pages 23-24 of this year's annual report, ministries can inform the public in the text of the notice about consultation opportunities, instead of formally seeking comments through an information notice.

Ministry of Natural Resources – Instruments

Water Management Plans (WMP)
***EBR Registry #s*:**
PB02E2006 - WMP for Blind River – Invitation to Participate
PB02E2008 - WMP for the Abitibi River – Invitation to Participate
PB02E2007 - WMP for the Mattagami River – Invitation to Participate
XB02E1008 - WMP for Aguasabon River – Invitation to Participate
XB02E1007 - WMP for the Nipigon River –Invitation to Participate
XB02E1009 - WMP for the Kaministiquia River – Invitation to Participate
XB02E1010 - WMP for the Seine River System – Invitation to Participate
XB02E1011 - WMP for Eagle and Wabigoon Rivers – Invitation to Participate
XB02E2010 - WMP for the Matabitchuan River – Invitation to Participate
XB02E2011 - WMP for the Montreal River – Invitation to Participate
XB02E2009 - WMP for Wanapitei River –Invitation to Participate
XB03E2007 - WMP for the Mattagami River – Review of Background Information/ Scoping Workshop
XB03E2008 - WMP for the Abitibi River – Review of Background Information/ Scoping Workshop
XB03E2002 - WMP for the Mississagi River – Invitation to Participate

Description

- WMPs are instruments issued by MNR. Under the *Lakes and Rivers Improvement Act*, MNR has the authority to order dam owners to prepare management plans in accordance with the Water Management Planning Guidelines for Waterpower.

ECO Comment

- Acceptable use of information notices.
- WMPs are not yet classified as instruments under the *EBR*. The ECO has urged MNR to classify the plans as soon as possible. For further information, please refer to page 11 of this year's annual report.
- For further discussion of the Water Management Planning Guidelines for Waterpower, please refer to pages 108-112 of the annual report and pages 161-168 of the supplement.

City of Kingston -Approval of sale, lease or other means of disposition of land by a Conservation Authority – *CCA* s. 21 (2)
***EBR Registry* #:** IB02E6001

Description

- MNR posted this notice in May 2002 to inform the public that it is considering approval of a proposed land disposition under section 21(2) of the *Conservation Authorities Act* (*CAA*) by the Cataraqui Region Conservation Authority.
- The 1.85 hectares proposed for sale would be sold to a private developer in exchange for a property of equal size plus additional financial proceeds.

ECO Comment

- Unacceptable use of an information notice. It is the ECO's opinion that proposals for the disposition of land sales under the *CAA* are prescribed instruments under the *EBR*. Please refer to pages 10-11 of this year's annual report for further discussion of this information notice.
- For more information about the consultation benefits afforded the public by the posting of a regular notice, please refer to page 23 of this year's annual report.

Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry – *Aggregate Resources Act (ARA)* section 7 (2) (a)
***EBR Registry* #:** IB02E2002

Description

- MNR posted this notice in May 2002 to inform the public of its proposal to issue a Category 4 – Class A licence under the *Aggregate Resources Act (ARA)* to the owner of a quarry in the District of Sudbury and to solicit public input on the proposal. The licence would permit the owner to excavate aggregate from a quarry of 95.3 hectares.

ECO Comment

- Acceptable use of an information notice provided that this was an instrument issued in accordance with the *ARA*.
- MNR provided a 32-day comment period through this information notice. Please refer to pages 23-24 of this year's annual report regarding ministries' use of information notices to seek public comment.

Ministry of Northern Development and Mines – Instruments

Amendments to certified closure plans
EBR Registry #s:
XD02E1011 – Kinross Gold Corporation - Hoyle Pond Mine, Schumacher
XD02E1015 – River Gold Mines Ltd. - Eagle River Mill, Mishibishu Lake Area
XD03E1001 – INCO/Falconbridge - McCreedy West Mine, Greater City of Sudbury
XD03E1003 – Golden Goose Resources Inc. – Magino Mine, District of Algoma
XD03E1002 – Williams Operating Corporation – Williams Mine, District of Thunder Bay
XD03E1004 – Apollo Gold Corporation – Black Fox Project

Description

- Under the Mining Act, mining companies must submit a Closure Plan, which proposes rehabilitation measures to be implemented upon the eventual closure of the operation, for filing by the Ministry of Northern Development and Mines (MNDM).
- Certified Mine Closure Plan Amendments may be filed by a proponent or ordered by a Director.

ECO Comment

- Acceptable use of an information notice.
- MNDM should have included references to the section of the *Mining Act* under which the amendments were submitted and provided more information on why MNDM is not required to post amendments to certified closure plans as regular notices on the Registry.

Ministry of the Environment – Act

Bill 175, the ***Sustainable Water and Sewage Systems Act (SWSSA), 2002***
***EBR Registry* #**: XA02E0006

Description

- The Ministry of the Environment (MOE) posted this notice on the Registry in November 2002 to inform the public that Bill 175 was referred to the Standing Committee on General Government on November 7, 2002 and to provide information on how to participate in the hearing process. The *SWSSA* requires municipalities to submit to the Minister a full cost report for the water and wastewater services they provide to the public and a cost recovery plan, describing how the full cost of providing the services will be covered.
- With the exception of the transfer of responsibility for the Bill to MOE, Bill 175 was identical to Bill 155. Bill 155 was originally introduced into the legislature by MMAH on December 12, 2001. It was posted on the Registry on December 17, 2001 as a regular notice, initially with a 30-day comment period, then extended to 60 days (AF01E0005).
- MOE informed the public that Bill 175 was passed on December 13, 2002 through an exception notice posted on the Registry on December 17, 2002 (AA02E0003).

ECO Comment

- Acceptable use of an information notice. However, even though Bill 155 was posted as a regular notice and Bill 175 was subject to consultation through the standing committee, there was nothing that prevented MOE from posting Bill 175 as a regular notice.
- For further information on Bill 175, please consult pages 105-107 of this year's annual report and pages 111-117 of the supplement.

Ministry of the Environment – Policies

Compliance Assistance Pilot Projects
***EBR Registry* #**: PA02E0003

Description

- MOE posted this notice in April 2002 to inform the public of two compliance assistance pilot projects that it is undertaking: one with the metal finishing sector and one with the autobody refinishing sector.
- The initiatives to be undertaken include: the provision of technical support and plain language legislation; access to legal best practices information; and compliance and environmental improvement training. The pilot projects are designed to help facilities meet their environmental legal obligations.

ECO Comment

- Acceptable use of an information notice.

Amendment to the Step by Step Guideline for Emission Calculation, Record Keeping and Reporting for Airborne Contaminant Discharge
***EBR Registry* #**: PA02E0030

Description

- MOE posted this notice in August 2002 to inform the public that it had amended the Step by Step Guideline for Emission Calculation, Record Keeping and Reporting for the Airborne Contaminant Discharge in order to clarify reporting requirements for reporters subject to O. Reg. 127/01 under the *Environmental Protection Act*.

- Finalized in May 2001, O. Reg. 127/01 requires facilities in the electricity generation, industrial, municipal and institutional sectors to monitor and report their emissions of airborne contaminants.

ECO Comment

- Acceptable use of an information notice.
- For information on the amended guideline, please refer to pages 53-55 of the annual report.

Information Posting for 15 Proposed New Air Standards
***EBR Registry* #:** XA02E0007

Description

- MOE posted the notice to act as a link to Air Standard Information Drafts for 15 air standards which are subject to review. The ministry's Air Standard Information Drafts provide a review of scientific and technical information relevant to standard setting for each substance.
- The Air Standard Information Drafts were also the subject of 15 individual policy proposals with 90-day comment periods (most ending March 31, 2003).
- The notice indicates that interested stakeholders may provide any additional information they feel should be considered by the ministry in developing proposals for the air quality standards.

ECO Comment

- The ECO commends MOE's use of an information notice for this purpose. The notice plays an important role by providing a common point of access for 15 separate, yet related, policy proposals.
- Please refer to pages 23-24 of this year's annual report regarding ministries' use of information notices to seek public comment.

Amendment to the Ontario Emissions Trading Code under Ontario Regulation 397/01 under the *Environmental Protection Act*
***EBR Registry* #:** XA03E0001

Description

- MOE posted this notice to advise the public that it had made administrative changes to the Ontario Emissions Trading Code.
- The Code was revised to include definitions, or clearer definitions, of certain terms; use terminology which is consistent with the Emission Trading Regulation (O. Reg. 397/01); clarify processes described in the Code; clarify the issuance and use of notices; and to ensure that verifiers understand their obligation to indicate their qualifications.

ECO Comment

- Acceptable use of an information notice.

Minister of the Environment's decision to extend the Class Environmental Assessment for Timber Management on Crown Lands in Ontario until July 17, 2003
***EBR Registry* #**: XA03E0003

Description

- MOE posted this notice to advise the public of its decision to extend the Class Environmental Assessment (Class EA) for Timber Management on Crown Lands in Ontario employed by the Ministry of Natural Resources (MNR) until July 17, 2003.
- The posting noted that MOE was in the process of reviewing comments received during the 90-day comment period on a review of the Class EA by MNR. MOE indicated that it would post a Declaration Order, incorporating changes or additional conditions to the Class EA, upon completion of the review. The posting also indicated that the July 17, 2003 extension would apply only if amendments and additional conditions were not approved by May 18, 2003.
- MOE posted the Declaration Order on the Registry on March 13, 2003 (RA03E0004). The Order was posted as a regular notice seeking comments over a 30-day period.

ECO Comment

- Acceptable use of an information notice.

Ministry of the Environment – Instruments

Approval for discharge into the natural environment other than water and approval for a waste disposal site for the Solid Waste Reduction Unit (SWARU) municipal incinerator in the City of Hamilton - *EPA* s. 9 & 27
***EBR Registry* #**: IA02E0763

Description

- In July 2002, MOE posted this notice to seek public comments on proposed amendments to SWARU's three Certificates of Approval (C of A). MOE proposed the amendments to the Cs of A after undertaking a review of the instruments as requested by an Application for Review under the *EBR*.
- MOE provided an update to the notice in February 2003. The update indicated that the Director had issued a revised C of A for the facility in October 2000. The City of Hamilton appealed several conditions of the revised instrument to the Environmental Review Tribunal. In December 2002, the City closed the incinerator and withdrew the appeal.

ECO Comment

- Acceptable use of information notices provided that this was an instrument issued in accordance with other statutory decisions, including those made under the *Environmental Assessment Act*.
- MOE should have provided clearer information on the EAA approval or exemption being referred to so that the reader could understand whether or not an approval under the EAA had been granted for the incinerator.
- MOE provided a 30-day comment period through this information notice. As noted on pages 23-24 of this year's annual report, ministries can inform the public in the text of the notice about consultation opportunities, instead of formally seeking comments through an information notice.
- For discussion of MOE's handling of an application for investigation of SWARU's ash handling practices please refer to pages 143-146 of this year's annual report and pages 262-266 of the supplement.

Direction on a report respecting sewage works or water works for municipalities –City of Quinte West - *OWRA* s. 62 (1)
***EBR Registry* #**: IA02E0871

Description

- The notice informed the public that a Report of the Director was re-issued on July 15, 2002 to the City of Quinte West to take all steps necessary to operate and maintain the water works servicing the Trenton Mobile Trailer Park in accordance with provincial law and regulations.
- MOE indicated that it was necessary to re-issue the report because the current owner had not complied with the legislation and was in non-compliance with a Provincial Officer's Order for operation of the water works.
- This is the third issuance of the report: it was issued on March 16, 2001 (the subject of an information notice posted on the Registry in March 2001) and also on March 4, 2002 (the subject of an information notice posted on the Registry in March 2002).

ECO Comment

- Acceptable use of an information notice provided the instrument was issued in accordance with other statutory decisions, including those made under the *Environmental Assessment Act*.
- MOE should have provided clearer information on the EAA approval or exemption being referred to so that the reader could understand whether or not an approval under the EAA had been granted for the water works.

Approval for a waste disposal site – Philip Enterprises Inc. - *EPA* s. 27
***EBR Registry* #**: IA02E1132

Description

- MOE posted this notice in September 2002 to inform the public that it had amended the Certificate of Approval for Philip Enterprises Inc. The amendments require the Company to conduct public consultation through the Environmental Review Tribunal in order to develop a revised Terms of Reference for the Company's Community Liaison Committee (CLC) and outline the requirements for progress and outcome reporting.
- The proposed Terms of Reference includes: clearly defined membership and selection criteria; development of a dispute resolution mechanism for the CLC to solve future concerns; and development of a process for future amendment of the Terms of Reference.

ECO Comment

- Acceptable use of an information notice.

City of Ottawa Permit to Take Water
***EBR Registry* #:** XA03E0005

Description

- MOE posted this notice in March 2003 to inform the public of a proposal to issue the City of Ottawa a permit to take water from the Jock River at a rate of 5,200,000 litres per day every April for 10 years and to solicit public input on the proposal.
- As per the request of the Richmond Conservation Area, the water would be pumped into a sewage lagoon. Increased lagoon water levels are expected is to enhance the environment and attract a diversity of wildlife.

ECO Comment

- The ECO commends MOE for posting this information notice.

- MOE should have provided clearer information on the *EAA* approval or exemption being referred to so that the reader could understand whether or not an approval under the *EAA* had been granted for the city's undertaking.

Ministry of the Environment – Regulations

Blue Box Waste
***EBR Registry* #**: RA02E0011

Description

- In July 2002, MOE posted this notice to inform the public that it had proposed a regulation under the *Waste Diversion Act (WDA)* to prescribe glass, leather, metal, paper, plastic, textiles, or any item made of a combination of these materials, as blue box waste for the purposes of the Act.
- In October 2002, MOE updated the information notice to announce the Minister's decision, on September 23, 2002, to prescribe blue box waste, as defined in the regulation, under the *WDA*.

ECO Comment

- Acceptable use of an information notice.
- The ECO encouraged MOE to prescribe the *WDA* for the purposes of section 16 of the *EBR* and post proposed regulations under the *WDA* as regular proposal notices. On April 1, 2003, MOE proposed to prescribe the Act through a regular proposal notice posted on the Registry (RA03E0012).
- MOE provided a 33-day comment period through the July 2002 information notice. As noted on pages 23-24 of this year's annual report, ministries can inform the public in the text of the notice about consultation opportunities, instead of formally seeking comments through an information notice.

Regulation under the *Waste Diversion Act, 2002* to prescribe certain material as used tires
***EBR Registry* #**: XA02E0002

Description

- In November 2002, MOE posted this notice to inform the public that it had proposed a regulation under the *Waste Diversion Act* (*WDA*), *2002* to prescribe used tires as a designated waste for the purposes of the Act. The regulation defines tire waste as used tires that have not been refurbished for road use and tires that, for any reason, are not suitable for their originally intended purpose. A "tire" includes a piece or portion of a tire.
- The Minister of the Environment may request Waste Diversion Ontario to develop and submit a proposed diversion program for those wastes which are designated through regulation under the *WDA*.
- In March 2003, MOE updated the information notice to announce the Minister's decision, on March 20, 2003, to prescribe used tires, as defined in the regulation, under the *WDA*. No changes were made to the draft regulation.

ECO Comment

- Acceptable use of an information notice.
- The ECO encouraged MOE to prescribe the *WDA* for the purposes of section 16 of the *EBR* and post proposed regulations under the *WDA* as regular proposal notices. On April 1, 2003, MOE proposed to prescribe the Act through a regular proposal notice posted on the Registry (RA03E0012).
- MOE provided a 33-day comment period through the November 2002 information notice. As noted on pages 23-24 of this year's annual report, ministries can inform the public in the text of the notice about consultation opportunities, instead of formally seeking comments through an information notice.

Regulation under the *Waste Diversion Act, 2002* to prescribe certain material as used oil
***EBR Registry* #:** XA02E0003

Description

- In December 2002, MOE posted an information notice to inform the public that it had proposed a regulation under the *Waste Diversion Act (WDA), 2002* to prescribe used oil as a designated waste for the purposes of the Act. The regulation defines used oil as lubricating oil after it has been used for its initial purpose; a filter after it has been used for its initial purpose; and an empty container, having a capacity of 30 litres or less, manufactured and used for the purpose of containing lubricating oil.
- The Minister of the Environment may request Waste Diversion Ontario to develop and submit a proposed diversion program for those wastes which are designated through regulation under the *WDA*.
- In March 2003, MOE updated the information notice to announce the Minister's decision, on March 20, 2003, to prescribe used tires, as defined in the regulation, under the *WDA*. Minor changes were made to the proposed regulation.

ECO Comment

- Acceptable use of an information notice.
- The ECO encouraged MOE to prescribe the *WDA* for the purposes of section 16 of the *EBR* and post proposed regulations under the *WDA* as regular proposal notices. On April 1, 2003, MOE posted a regular proposal notice on the Registry in which it proposed to prescribe the Act (RA03E0012).
- MOE provided a 41-day comment period through the December 2002 information notice. As noted on pages 23-24 of this year's annual report, ministries can inform the public in the text of the notice about consultation opportunities, instead of formally seeking comments through an information notice.

Proposed Drinking Water Testing Services Regulation made under the *Safe Drinking Water Act, 2002*
***EBR Registry* #:** XA03E0006

Description

- MOE posted this notice in March 2003 to inform the public of a proposed regulation under the *Safe Drinking Water Act (SDWA)* which would set out the licencing requirements for laboratories providing drinking water testing services and to solicit public input on the proposed regulation.
- The notice also made available and solicited comments on two proposed ministry documents that are referenced in the proposed regulation: "Protocol of Accepted Drinking Water Testing Methods", and "Practices for the Collection and Handling of Drinking Water Samples".

ECO Comment

- Acceptable use of an information notice. Since the *SDWA* was not yet prescribed, MOE was not able to post a proposal.
- On April 1, 2003, MOE posted a regular proposal notice on the Registry in which it proposed to prescribe the *SDWA* under the *EBR* (RA03E0012). As a result of this proposal, members of the public will be able to participate in the decision-making process for environmentally significant regulations under the act as required by section 16 of the *EBR*.
- MOE provided a 30-day comment period through this information notice. As noted on pages 23-24 of this year's annual report, ministries can inform the public in the text of the notice about consultation opportunities, instead of formally seeking comments through an information notice.

Ministry of the Environment – Special Announcement

File Review Regarding the Posting of Late Decision Notices on the Environmental Registry
***EBR Registry* #: "Special"**

Description

- This notice, posted in November 2002, provides an update to a special notice that was posted on August 16, 2001 (and reviewed by the ECO in the supplement to the 2001/2002 annual report, page 16).
- During a file review, MOE staff had discovered that over 1,200 instrument proposal notices were posted on the Registry without the accompanying decision notice.
- The November 2002 notice informed the public that the ministry has successfully addressed the majority of the notices and that it has developed an internal process to mitigate this problem.

ECO Comment

- Acceptable use of an information notice. The notice provided an important public service to Registry users.
- MOE might have indicated how many instrument decision notices remain to be posted and when they will be.

Ministry of Transportation – Policies

Simcoe Area Transportation Network Needs Assessment Study
***EBR Registry* #:** PE02E4508

Description

- This information notice informed the public about the availability of documents related to the Simcoe Area Transportation Needs Assessment and requested public input on them. The Ministry of Transportation (MTO) noted that the studies are a component of its "strategic long-range transportation planning program to improve transportation through Ontario's major international gateways and key highway corridors."

ECO Comment

- Unacceptable use of an information notice.
- In spring 2001, MTO was informed of the ECO's opinion that the public should have the opportunity to provide input into MTO's decision-making at the Needs Assessment stage, in keeping with the intent and posting requirements of the *EBR*.
- For more information please refer to page 60 of the ECO's 2000/2001 annual report and page 16 of the ECO's 2000/2001 supplement.
- For more information about the consultation benefits afforded the public by the posting of a regular notice, please refer to page 23 of this year's annual report.

Environmental Management and Performance Standards and Measures for Future 400 Series Highways
***EBR Registry*#:** XE02E4550

Description

- MTO posted this notice to inform the public that its Environmental Standards Project had completed an information document entitled "Environmental Management and Performance Standards and Measures for Future 400 Series Highways."
- The document covers four areas:
  - -Environmental Quality Standards
  - -Environmental Best Practices
  - -Measures for Environmental Performance

-Environmental Management System

- The standards are intended to ensure that those responsible for designing, constructing, operating and maintaining future 400 series highways understand and fulfill their environmental obligations.

ECO Comment

- Acceptable use of an information notice.
- MTO provided a 45-day comment period. Please refer to pages 23-24 of this year's annual report regarding ministries' use of information notices to solicit comments.

SECTION 3

ECO REVIEW OF MINISTRIES' USE OF EXCEPTION NOTICES IN 2002/2003

SECTION 3: ECO REVIEW OF MINISTRIES' USE OF EXCEPTION NOTICES

Emergency Exceptions Under Section 29(1) of the *EBR*

Ministry of the Environment – Regulations

MNR Declaration Order for the Class Environmental Assessment for Timber Management on Crown Lands in Ontario (Class EA)
EBR Registry #: RA02E0009

Description

- The notice, dated June 6, 2002, was posted to inform the public that the Ministry of the Environment (MOE) had issued a Declaration Order to extend MNR's deadline for the submission of its review of the Timber Class EA from May 18, 2002 to July 17, 2002. MNR was not able meet the original deadline due to labour disruption.
- The notice explained that the Declaration Order was not posted as a regular notice "as the delay caused by a 30-day posting would have caused a serious risk of harm to the environment by preventing MNR from approving forest management plans and annual work schedules, which are necessary to conduct forestry operations, including remedial work such as tree planting."
- The notice also indicated that, once submitted, the public would be provided with 60-days to make written comments to the Minister of Environment and Energy (now the Minister of the Environment) on the review and that the submission would be available through the Environmental Registry.
- On July 17, 2002 MNR submitted its final review to the Minister of the Environment and posted an information notice, with a 60-day comment period on the Registry. MNR subsequently updated the information notice in September 2002 to extend the comment period to October 16, 2002.

ECO Comment

- The ECO accepts this use of an emergency notice.
- The notice might have also provided the public with a link to MNR's information notice on the environmental assessment work to extend the Class EA (PB01E7004) and to Timber Class EA information on MNR's website.

Order to declare that the proposed dredging of the navigation channel between Moosonee and Moose Factory Island, by the Ontario Northland Transportation Commission, is not subject to the requirements of the *Environmental Assessment Act*
EBR Registry #: RA02E0012

Description

- MOE posted this emergency notice on October 15, 2002 to inform the public that it issued a Declaration Order to allow the Ontario Northland Transportation Commission to dredge a portion of the navigation channel between Moosonee and Moose Factory Island. Issued on August 28, 2002, the Order allowed the Commission to dredge the channel without having to conduct an individual environmental assessment.
- As a result of silting and low water conditions, the ferry between the Moosonee and Moose Factory Island was not able to operate during periods of low tides. The navigation constraints posed a threat to the transfer of medical patients between the two points. The notice stated that "If the Declaration Order was not made by the first week of September, the communities dependent on the ferry service would have been at risk."

ECO Comment

- The ECO accepts this use of an emergency notice.
- The notice does not comment on why it was posted a month and a half after the Declaration Order was issued.

- The notice might have indicated when the siltation and low water became a problem and when the consultation took place.

Ministry of the Environment – Instruments

Approval for a Waste Disposal Site, *Environmental Protection Act (EPA)*, section 27
Greater Toronto Area
EBR Registry #: IA02E0725

Description

- MOE posted this notice in July 2002 to outline the actions it had taken to deal with waste during a strike by the City of Toronto's outside workers. MOE issued temporary emergency Certificates of Approval under the *EPA* to private sector transfer stations in the Greater Toronto Area. This allowed the City to transfer to private stations waste which it could not manage at its own stations. The ministry also issued emergency approvals to increase service areas and waste receiving rates of privately operated landfill sites in Ontario. The emergency approvals were to expire within five days of the strike's resolution.
- The posting notes: "If prevented from utilizing approved waste management facilities, the City of Toronto would have no legal alternatives for waste disposal. Without proper waste management, there could have been a risk of increase in vermin, disease and destruction of property."

ECO Comment

- The ECO accepts this use of an emergency notice.
- The notice did not provide a ministry contact name and contact information.

Approval for a waste disposal site, *Environmental Protection Act (EPA)*, section 27
***EPA*, section 9, Canadian Waste Services Inc, City of Toronto**
EBR Registry #: IA02E1581

Description

- On November 21, 2002, workers at a Canadian Waste Services Inc. transfer station went on strike.
- The transfer station experienced secondary picketing which disrupted the transfer, collection and processing of curbside recyclable material in the Region of Peel.
- This emergency notice was posted on December 13, 2002 to indicate that MOE had issued an emergency approval under Part V of the *EPA*. The approval allowed the company to accept domestic recyclable material form the Region of Peel at its transfer station in Toronto, and permitted a temporary capacity increase.

ECO Comment

- The ECO accepts this use of an emergency notice.
- There was a three week delay in posting this emergency notice.

Direction for maintaining water works, *Ontario Water Resources Act*, section 52(6)
Canadian National Railway Company Prairie Division, Village of Redditt, District of Kenora

***EBR Registry* #:** IA03E0384

Description

- This emergency notice was posted on March 19, 2003 to inform the public that MOE had issued Direction to the Canadian National Railway Company, Prairie Division to require the company to continue to operate and maintain the communal water supply in the Village of Redditt, District of Kenora, until June 30, 2003. June 30, 2003 was the scheduled completion date for the residents' transition from communal to private supplies. After Canadian National was issued a provincial officer's order on September 6, 2001 which required compliance with Regulation 459/00, the company expressed its intention to shut down its system by spring 2003.
- The posting notes: "A delay in undertaking the requirements of this order would present a risk that the public would not have access to water for domestic purposes (other than drinking) which would result in danger to the health and safety of any person, especially during the winter. In addition, any delay in repairing a water main break could result in the uncontrolled flow of water thereby resulting in injury or damage or serious risk of injury or damage to any property.

ECO Comment

- The ECO accepts this use of an emergency notice.
- The notice should have indicated when Canadian Rail expressed its intention to shut down the water system and why it was not possible for the ministry to consult on its decision to issue the Direction.
- The notice should have included the location of a ministry office that had more information and a contact person to contact for further information.

Ministry of Natural Resources – Policy

Raccoon Rabies Control in Ontario

***EBR Registry* #:** PB02E6016

Description

- This emergency notice was posted on July 24, 2002 to indicate that the Ministry of Natural Resources (MNR) had made changes to two policies – Point Infection Control Strategy (PICS) to Control Raccoon Rabies in Ontario (originally posted on the Registry in 1999 (PB8E6014) and the Wildlife Custodian Authorization – to prevent the spread of rabies in Ontario. MNR made the changes when it became aware that private animal control companies and other groups had been relocating nuisance wildlife species, including raccoons which are potentially infected with rabies, in eastern Ontario.
- PICS was amended to state that there is to be no relocation of rabies vector species within 50 km of the location of a recent case of raccoon rabies (defined as a "high risk area"), occurring within the last 24 months. The Wildlife Custodian Authorization was revised to alter the requirements around the capture and release of rabies vector species within the high risk areas.
- The posting notes: "A delay in undertaking the implementation of these policy changes would pose: a danger to the health or safety of the public by increasing the risk of contracting rabies; a serious risk of harm to the environment by increasing the risk of rabies for wildlife; and, a serious risk of injury or damage to property by increasing the risk of rabies in domestic animals.

ECO Comment

- The ECO accepts the use of this emergency notice.

Equivalent Public Participation Exception Under Section 30(1) of the *EBR*

Ministry of Natural Resources – Regulations

Establishing/Modifying Parks, Conservation Reserves, Nature Reserves Under Ontario's Living Legacy (OLL) Land Use Strategy (LUS)

EBR #/Description
RB00E1001 – Establishing 26 Conservation Reserves and Making an Addition to an Existing Reserve
RB00E1002 – Establishing 4 Provincial Parks and Making Additions to 4 Existing Provincial Parks
RB01E3006 – Establishing 4 New Conservation Reserves
RB00E3003 – Establishing 16 Conservation Reserves
RB02E3003 – Establishing 6 New Conservation Reserves
RB02E3002 – Establishing 2 New Provincial Parks
RB02E1001 – Establishing 3 Conservation Reserves
RB02E1002 – Establishing 1 Provincial Park and Making Additions to 2 Existing Provincial Parks
RB00E2001 – Establishing 76 Conservation Reserves
RB00E2002 – Establishing 16 Provincial Parks, Making Additions to 13 Existing Provincial Parks and the Reclassification and Re-configuration of an Existing Provincial Park
RB02E1004 – Establishing 4 New Provincial Parks
RB02E1005 – Establishing 6 New Conservation Reserves
RB02E2001 – Establishing 3 New Conservation Reserves
RB02E2002 – Establishing 4 New Provincial Parks and 5 Making Additions to Existing Provincial Parks
RB01E3005 – Establishing 15 New Conservation Reserves
RB02E2004 – Establishing 1 Provincial Park and Making an Addition to an Existing Provincial Park
RB02E2003 – Establishing 2 New Conservation Reserves
RB02E1006 – Establishing 1 Conservation Reserve
RB01E1002 – Establishing 28 Conservation Reserves

ECO Comment

- Several of these notices are updates. In some cases, the notices' text provide information regarding permitted and prohibited land uses (such as hunting). Readers should refer to the notices themselves should they wish further detail.

Ministry of the Environment – Instruments

Order for Remedial Work, *Environmental Protection Act (EPA)*, section 17
Order for Preventative Measures, *EPA*, section 18
City of Kitchener
EBR Registry #: IA02E0749

Description

- MOE posted this equivalent public participation notice to inform the public that it had issued an Order to McColl-Frontenac Inc., a wholly owned subsidiary of Imperial Oil. The Order required the company to retain a consultant to prepare a remedial work plan for contamination at its Kitchener site; to prepare and implement a long term monitoring program for the site; and to maintain records and submit records. The Order identifies McColl-Frontenac Inc. as the party responsible for migration of subsurface gasoline soil and the contamination of off-site groundwater.
- Originally the Order had been issued to Imperial Oil but was re-issued to McColl-Frontenac Inc. when MOE discovered that McColl-Frontenac Inc. had management or control of the property in question.
- The original Order was posted on the Registry for a 30-day comment period (IA00E1915).

ECO Comment

- The ECO accepts the use of the equivalent public participation notice.

Approval for Discharge into the Natural Environment other then Water (i.e. Air)
***Environmental Protection Act (EPA)*, section 9**
Nortel Networks Corporation, Belleville
EBR Registry #: IA02E0894

Description

- MOE posted this notice on August 8, 2002 to inform the public that it had approved Nortel's application to use in-situ remedial measures to improve soil and groundwater quality on its Belleville premises. The application requested permission to inject an aqueous solution of potassium permanganate into the soil and groundwater in order to address the volatile organic compounds, polychlorinated biphenyls, total petroleum hydrocarbons and metals present.
- The measures were to complement a soil excavation and removal remediation process which were the subject of a Registry posting (IA02E0526) and a 30-day comment period beginning June 6, 2002. The decision notice posted on September 30, 2002 indicated that approval was not granted for the soil excavation and removal mediation measures as the company had withdrawn its application.

ECO Comment

- Acceptable use of an equivalent public participation notice.
- The notice does not clearly state why a regular notice was not used, nor does it adequately describe how the environment originally became contaminated.

Ministry of the Environment – Act

Bill 175, *Sustainable Water and Sewage Systems Act (SWSSA)*, 2002
EBR Registry #: AA02E0003

Description

- This equivalent public participation notice was posted on December 17, 2002 to inform the public of the passage of Bill 175, the *SWSSA*, on December 13, 2002. The *SWSSA* requires municipalities to submit to the Minister a full cost report for the water and wastewater services they provide to the public as well as a cost recovery plan, describing how the full cost of providing the services will be covered.
- Bill 155, identical to Bill 175 in all regards except that it named MAH as the responsible ministry, was posted on the Registry for a 60-day comment period (AF01E0005). Bill 175 was referred to the Standing Committee on General Government and was the subject of hearings. MOE posted an information notice on the Registry on November 15, 2002 (XA02E0006) to inform the public that Bill 175 had been referred to the Standing Committee and of the consultation opportunities available.

ECO Comment

- The ECO accepts the use of the equivalent public participation notice.
- For further information on Bill 175, please consult pages 105-107 of this year's annual report and pages 111-117 of the supplement.

SECTION 4

REVIEWS OF SELECT DECISIONS ON POLICIES, ACTS, REGULATIONSAND INSTRUMENTS IN 2002/2003

SECTION 4: REVIEWS OF SELECT DECISIONS ON POLICIES, ACTS, REGULATIONS AND INSTRUMENTS

MINISTRY OF AGRICULTURE AND FOOD

Review of Posted Decision:
Nutrient Management Act, 2002 (Bill 81)

Decision Information:

Registry Number: AC01E0001	Comment Period: 60 days
Proposal Posted: June 15, 2001	Number of Comments: 22
Decision Posted: Not yet posted	Came into Force: July 1, 2003

Description:
Agriculture is a major industry in Ontario, contributing $25 billion to the provincial economy and employing 640,000 people. Ontario's Ministry of Agriculture and Food (OMAF) estimates that in 2002 between 50,000 to 60,000 farms operated in Ontario. OMAF, which is responsible for promoting the growth and competitiveness of Ontario's agriculture and food sectors, has indicated that its goal is to grow agri-food exports at a minimum rate of four per cent annually. In the last fifty years, technology and science have enabled farms to become larger and more efficient. Crop production and some livestock numbers, such as cattle and pigs in particular, have more than doubled. While overall production has increased, the number of producers has decreased significantly. Between 1951 and 1998 the number of dairy farmers in Ontario dropped from approximately 40,000 to 7,200 and the number of pork producers from 93,000 to 5,500.

In his Part 2 Report for the Walkerton Inquiry, Commissioner O'Connor stated that "agriculture can be a significant source of the contaminants in drinking water" and that, as part of a multi-barrier approach to providing safe drinking water, the source of the water must be protected.

Contaminants from agricultural operations can enter surface and/or ground water via runoff from fields, direct deposition by grazing animals, discharge from tile drains, flow through soil and cracks in the bedrock, or man-made openings such as improperly sealed or poorly maintained wells. Once contaminated, cleanup of surface water and ground water, in particular, can be expensive, difficult and may even be impossible.

Using 1996 data, Statistics Canada estimated that five of the ten areas in Canada that produced the most manure per hectare were in southwestern Ontario. The Maitland, Upper Thames and Grand sub-sub-basins each produced more than 6,000 kilograms of manure per hectare annually; and the Ausable-Bayfield and Saugeen sub-sub-basins each produced more than 4,000 kilograms per hectare annually. This is in contrast to an annual average per hectare in Canada of 755 kilograms of manure.

In June 2001, OMAF introduced Bill 81, the *Nutrient Management Act* (*NMA*). The *NMA* states that "The purpose of this Act is to provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development." Bill 81 received royal assent on June 27, 2002, and came into force July 1, 2003.

In this Act, agricultural operations have been defined as the growing of livestock, production of crops, and operations such as aquaculture, horticulture and silviculture. It specifically includes activities such as the cultivation of greenhouse crops, nursery stock and tobacco; the production of maple syrup; husbandry of deer, elk, game animals and birds; and the growing of mushrooms, trees and turf grass. The *NMA* identifies "nutrients" as fertilizers, organic materials, biosolids, compost, manure, septage (i.e., human waste from septic tanks), pulp and paper sludge, and other material applied to land for the purpose of improving the growing of agricultural crops. The scope of the *NMA* can be modified by enacting regulations that:

- Add or remove types of operations that are defined as "agricultural";
- Add or remove types of materials that are classified as "nutrients;" and
- Specify additional uses for materials containing nutrients.

By regulation, each agricultural operation will be classified into one of nine categories based on the nature of the operation and on the amount of nutrients generated and received. The agricultural operation would then be required to comply with the regulations specific to its category.

Over 26 specific subject matters may be regulated, including:

- The size, capacity, location and construction of buildings that store materials containing nutrients, or house farm animals;
- The amount of materials containing nutrients that may be applied to lands, the quality of the materials, and the type of land to which they may be applied;
- The time and manner in which materials containing nutrients may be applied to lands;
- Preparation, approval and revision of nutrient management plans (NMPs) for agricultural operations, and nutrient management strategies (NMSs) for municipalities and generators of materials containing nutrients;
- Establishment of a registry containing the NMPs and NMSs;
- Collection and chemical analysis of materials containing nutrients;
- Studies of soil type, topography of the land on which the nutrients are to be applied, and of the risk of contamination of water located on, in or under those lands;
- Restricting access of farm animals and persons to lands on which materials containing nutrients have been applied, and to water and watercourses; and
- Establishment of local committees to assist in the management of materials containing nutrients and mediation of disputes.

Under the *NMA*, any municipal by-law addressing the same topic as a regulation becomes inoperative, thereby establishing uniform province-wide standards.

Under the regulatory system that preceded the *NMA*, MOE required generators of biosolids (e.g., sewage treatment plants, pulp and paper mills), haulers of septage, and managers of sites onto which biosolids are applied to have and follow certificates of approval under the *Environmental Protection Act (EPA)*. OMAF and MOE have stated that the current system of approvals for untreated septage will be phased out within five years. Under the *NMA*, regulations may also require:

- Farmers/applicators of materials containing nutrients to land to pass an examination;
- Persons in the business of applying materials containing nutrients to obtain a license;
- Sites onto which said materials will be applied to have an approved NMP;
- Generators of biosolids to prepare a NMS; and
- Persons preparing or approving NMPs and NMSs to meet designated qualifications.

Similar to the *EPA* and the *Ontario Water Resources Act (OWRA)*, the *NMA* provides for the designation of Provincial Officers, who may enter and inspect an agricultural operation without a warrant; and who may issue an order to prevent, decrease or eliminate an adverse effect due to the discharge of materials containing nutrients to the natural environment. Orders may also be issued requiring work to be done or requiring a person to comply with the Act, the regulations, or with their certificate, license or approval. However, unlike the *EPA*, orders can only be issued to current owners and operators – previous owners and operators are exempt. If an operator fails to comply with the *NMA*, a MOE official may issue an administrative penalty to a maximum of $10,000 per day for each offence. If the person pays the penalty, the person will not then be charged with an offence.

Operators can appeal decisions regarding the approval/denial of a certificate or a license issued by OMAF, or an administrative penalty to the Environmental Review Tribunal within 15 days.

A corporation convicted of an offence under the *NMA* may be fined a maximum of $10,000 per day for the first offence, and $25,000 per day for a subsequent offence. However, corporate officers can only be convicted of an offence if they knowingly concur with the commission of the offence. An individual may be fined a maximum of $5,000 per day for the first offence, and $10,000 per day for a subsequent offence. These maximum fines apply to any offence, including offences that result in impairment to the environment.

In contrast, under the *EPA* and *OWRA*, maximum fines related to impairment of water start at $250,000 per day and rise to $10,000,000 per day. The amount of the fine depends on whether or not an individual or a corporation committed the offence, and whether or not it is a first or subsequent offence. Individuals convicted under the *EPA* or *OWRA* may also be imprisoned and corporate officers must exercise reasonable care to prevent the offence from occurring.

In September 2002, OMAF indicated to the ECO that its staff will be responsible for administering most aspects of the *NMA*, including operator training and certification, operation of the NMP registry, review and approval of the NMPs and NMSs, and technical support; and MOE will be responsible for enforcement, review and approval of certificates of approval under the *EPA*. MOE and OMAF will jointly develop policies, standards, and regulations, and conduct research.

Cabinet may delegate functions related to the registry created by this legislation; the review of NMPs and NMSs; and the issuance, amending, suspending or revoking of certificates, licenses and approvals to an individual, partnership or corporation.

NMA also clarifies that compliance with the *NMA* is to be considered a "normal farm practice" for the purposes of the *Farming and Food Production Protection Act*. This means that neighbours will not be able to sue farmers who comply with the *NMA* for disturbances such as odour or dust.

Implications of the Decision:
OMAF states that the *NMA* provides a framework by which nutrients can be managed for the benefit of improving crop growth while protecting the environment. It provides Cabinet with the means to create regulations in a timely manner for the management of any current or future material that is deemed to contain nutrients that benefit crop growth. In addition, regulations can be created to ensure that persons and operators responsible for the management of these materials are qualified. As of July 2003, regulations for some types of farms, will replace voluntary, best management practices with compulsory, enforceable standards. Voluntary, best management practices will continue to be used for other types of farms.

Over the years municipalities across Ontario have enacted as many as 70 local by-laws in response to concerns about nutrient management and large agricultural operations. These by-laws create, what the agricultural community considered to be, an unfair advantage to those operations that are not subject to restrictions. Furthermore, farming operations that span more than one municipality may be subject to different by-laws leading to confusion about which requirements apply. It is expected that most, if not all, of these by-laws will be replaced by *NMA* regulations such that agricultural operations would no longer be subject to differing standards across the province.

OMAF and MOE have indicated that the *NMA* is part of the Ontario government's commitment to implement all of Commissioner O'Connor's recommendations. OMAF has also stated that the *NMA* addresses the issues and risks identified in the ECO report "The Protection of Ontario's Groundwater and Intensive Farming."

OMAF has acknowledged that some areas may not have sufficient land available to support all of the materials containing nutrients produced in the area due to the presence of intensive farming operations. Southwestern Ontario is at particular risk due to the concentration of large hog farms in the area. Unfortunately, the potential for other areas to use the material is constrained by the costs of transportation, the short time-frames during which spreading can be done, and availability of resources to store, haul and apply the materials.

Although the *NMA* does not restrict the number of farm animals, it also does not preclude restrictions. OMAF acknowledges that the size of an agricultural operation may be determined by the availability of land to receive nutrients.

OMAF and MOE have acknowledged that implementation of the regulations will require training and funding for farmers. The nature and extent of training and funding have not yet been determined. Small agricultural operations are expected to need the most assistance. Provincial Officers will also need to be trained in agricultural practices, including biosecurity, to ensure fair and appropriate enforcement and to prevent transmission of disease from farm to farm.

OMAF and MOE have stated that a central registry of NMPs and NMSs will be created to provide registry users and government with information on sources (generators) and destinations (receivers) of nutrients, and the type, quality and quantity of nutrients generated and applied. This information could then be analyzed to determine volumes and trends, proximity of application sites to watercourses and other sensitive areas, and potential locations for soil and water quality testing. Without this information, it would be difficult for OMAF, MOE and other agencies to assess the impact of the nutrients on watercourses, and the design of monitoring programs that can differentiate between agricultural sources and other dischargers, e.g., industry and sewage treatment plants.

Although the scope of the *NMA* includes aquaculture, horticulture and silviculture, OMAF to-date has provided insufficient information to properly assess the impact on these operations.

Public Participation & *EBR* Process:

Bill 81 was subject to extensive public consultation. Of 182 organizations and individuals submitting comments or making presentations, there were 68 farm organizations, 21 environmental groups, 31 municipalities, 10 conservation authorities, 14 private companies and 38 individuals. Bill 81 was posted on the *EBR* Registry for 60 days resulting in 22 submissions under the *EBR*.

Since a decision notice has not yet been posted on the Registry (as of July 2003), the ECO is unable to assess how OMAF considered the comments except to state that the final version of the Bill did include a purpose statement and a provision related to biosecurity which had been raised as suggested additions during public consultation.

Enforcement of NMA

One of the most contentious issues raised by commenters related to whether OMAF or MOE should be accountable for ongoing enforcement of the *NMA* and associated regulations. For the most part, agricultural organizations took one of two positions: (a) OMAF should be wholly accountable since the *NMA* is about nutrient management by farm operations and since OMAF has expertise on farms and a positive, co-operative relationship with farmers; or (b) a MOE inspection unit should be seconded to OMAF. Many farm groups stressed that the approach to compliance and enforcement should be positive and cooperative rather than punitive. For the most part, environmental groups recommended that MOE be wholly accountable for enforcement due to its independence and its expertise in enforcement.

Municipal By-laws

There was widespread support from the agricultural community for the provision that prohibits municipalities from implementing by-laws that address subject matters covered by the *NMA*. Others, including Sierra Legal Defence Fund, expressed concern that progress made by some municipalities with by-laws to improve their watersheds may be reversed and that municipalities would no longer be able to protect sensitive sites. The Christian Farmers Federation of Ontario also supported legislation that would grant municipalities the right to create nutrient management by-laws provided their by-laws were within provincially-defined constraints. They also noted that both the *Planning Act* and *NMA* include provisions for regulations related to minimum distance separation for buildings and site plans for livestock facilities. Chicken Farmers of Ontario expressed concern that municipalities would use other tools such as the *Planning Act* to circumvent the *NMA*.

Funding and Training

The Ontario Federation of Agriculture noted that it "had overwhelming support on the concept of farmers preparing a nutrient management plan specific to their farm operations" provided that an "appropriate level of training is provided and funding assistance is available to offset any capital cost improvements that are necessary to comply with the legislation." Groups, both agricultural and environmental, expressed concern that small agricultural operations may not have the resources necessary to comply with the regulations and may instead cease operation.

Public Access to Nutrient Management Plans and Strategies

Since the government plans to store NMPs and NMSs in an electronic registry, there is the potential for public access. A number of farming organizations concurred with the Dairy Farmers of Ontario who stated: "verification of compliance and a short summary of nutrient management plans should be public documents. Full plans should not be available to the public in consideration of sensitive and/or protected information. Plans should be audited by the auditor and not audited by public complaint." The Canadian Environmental Network indicated that NMPs should be public documents so that the public has the opportunity to verify for themselves whether or not agricultural operations are following their plans.

Delegation of Responsibilities under NMA

There was little support from anyone for provisions that allow delegation to non-government individuals or organizations of roles, such as provincial officers; and responsibilities, such as review of NMPs and NMSs, development and administration of the NMP registry, and issuance of certificates, licences and approvals.

SEV:

According to its SEV, OMAF's vision is "to foster competitive, economically diverse and prosperous agricultural and food sectors and promote the economic development of rural communities." The vision does not include any specific environmental commitments. As of July 2003, OMAF had not provided the ECO with an explanation as to how the minister had taken the SEV and her environmental obligations described under the *EBR* into consideration in making this decision.

The ECO notes that the *NMA* does indicate that its purpose is to "provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development." In addition, the proposed topics for regulation provide an opportunity for the government to provide some protection of surface and ground water from agricultural activities. However, until the regulations are finalized, the effectiveness of this protection cannot be determined.

Other Information:
In the ECO's July 2000 special report "The Protection of Ontario's Groundwater and Intensive Farming" to the Legislative Assembly, the ECO noted that:

- Intensive farm operations produce vast quantities of manure but do not have the land on which to spread it.
- There are no legally binding standards in place to manage the environmental risks from manure.

The ECO also urged the government to develop a comprehensive strategy to protect groundwater. In our 1999/2000 Annual Report, the ECO recommended that intensive farm operations be subject to the same approvals, monitoring and compliance mechanisms as other industries.

Commissioner O'Connor noted that "there is considerably less environmental and water protection regulation of agriculture in Ontario than there is in many other Western jurisdictions." Instead the province relies on voluntary programs such as training, technology transfer, publications and Environmental Farm Planning, and has offered a variety of cost-sharing incentive programs including the Healthy Futures for Ontario Agriculture to promote best management practices.

In its literature, OMAF claims that farm operations must comply with provisions in *EPA* section 14(1) that prohibit the "discharge of contaminants that are likely to have an adverse effect on the natural environment." However, section 14(2) of the *EPA* states that the general prohibition on discharges contained in section 14(1)(a) of the *EPA* does not apply if there is impairment of the quality of the natural environment for any use, e.g., fishing or swimming, caused by "animal wastes disposed of in accordance with normal farming practices." This has been interpreted by many MOE staff as imposing a very high burden of proof on MOE to prove alleged contraventions of the *EPA* by farmers related to impairment of environmental quality. As a result, few charges have ever been laid. However, section 14(1)(a) of the *EPA* does apply to the application of animal wastes when farmers fail to follow normal practices. Regardless, sections 14(1)(b-h) apply if animal wastes disposed of in accordance with normal farming practices causes or is likely to cause injury or harm to property or to plant or animal life, harm to human health or loss of enjoyment of normal use of property, etc. The *EPA* does specifically exempt animal wastes from waste management requirements, such as certificates of approval for generating, hauling and treatment of wastes.

OMAF also notes that farm operations are subject to provisions in the:

- O*WRA* that prohibit "discharges or deposits of material of any kind into a water body or watercourse that may impair water quality;" and
- federal *Fisheries Act* that prohibit activities that "results in the harmful alteration, disruption or destruction of fish or fish habitat."

Although not noted on the OMAF website, farm operations are also subject to the provision in the federal *Fisheries Act* that prohibits a person from depositing or permitting the deposit of a "deleterious substance of any type in water frequented by fish." As noted in the 2001/2002 annual report of the ECO, enforcement in the agricultural sector under both of these Acts has been confused or lacking in the past and few prosecutions have been launched by MOE and Environment Canada.

Commissioner O'Connor indicated that "every large or intensive farm, and every smaller farm located in an area designated as sensitive or high-risk, be required to develop a water protection plan that is consistent with the local watershed-based source protection plan....A simple regulation of individual farms that does not account for the cumulative effects of all the activities in a watershed is not sufficient." Commissioner O'Connor envisioned that farm water protection plans would include, not only materials containing nutrients, but also stormwater runoff, pesticides and fuels. In his assessment of the draft *NMA* as a vehicle to protect drinking water sources he noted that pathogens and other potential contaminants are not necessarily considered, and that watershed-specific information may not be considered. He also noted that nutrient management planning in the past was biased towards maximum crop yield rather than protecting water resources.

In 1991, the European Union passed the Nitrate Directive that requires its member countries to reduce nitrate pollution by controlling time-frames, procedures and conditions for land application of nutrients. Countries such as the Netherlands have limited the size of intensive farm operations, and have paid farmers to cease operations. In response to restrictions implemented under the Nitrate Directive and aggressive campaigns promoting Ontario and Canada as farm-friendly in the 1990s, European farmers began to sell their farms for substantial sums and move to Quebec and Ontario where, until recently, regulations have been less restrictive. However, in 1997 Quebec began regulating livestock operations and more recently has implemented an 18-month ban on new hog barns in over 100 municipalities that have more manure than land on which to spread it.

On June 30, 2003, O.Reg. 267/03 under the *NMA* was filed. This regulation defines requirements applicable to new livestock farms, and expanding and existing large livestock farms, including requirements for MNPs and MNSs, approvals, siting and construction standards and land application. The government also established the Provincial Advisory Committee to look into various issues such as manure storage and when proposed regulations would apply to other types of farms.

ECO Comment:

The *NMA* is enabling legislation that re-affirms the government's commitment to control the environmental impacts of land application of materials containing nutrients. The *NMA* permits the application of materials that contain nutrients that improve the soil or crop growth if the materials are managed by qualified personnel. The *NMA* reinforces the principle that appropriate nutrient management is an important aspect of sustainable agriculture and of environmental protection. In addition, the *NMA* fills a regulatory gap in Ontario that many other jurisdictions have addressed over the last few years and provides consistent province-wide standards.

The ECO supports a phased implementation that requires large agricultural operations to meet stricter standards and earlier implementation dates than small operations. However, adequate funding and training are necessary if the objectives of the *NMA* are to be achieved.

Enforcement

The effectiveness of the *NMA* will also depend on ongoing and timely enforcement. In his Report on the Walkerton Inquiry, Commissioner O'Connor recommended that:

- MOE regulate the potential impacts of farm activities on drinking water sources and establish minimum regulatory requirements; and
- OMAF provide technical support to MOE and continue to advise farmers about the protection of drinking water sources.

In March 2003, after considerable discussion, OMAF announced that it would be the "first point of contact for on-farm nutrient management issues, including monitoring" and that MOE would have "ultimate authority to ensure compliance with the regulations through investigations and enforcement." The ECO will review this decision when further information is available.

Municipal By-laws

The *NMA* includes a provision that regulations will override municipal by-laws if they address the same subject matter. While the ECO recognizes the advantages of province-wide standards and believes that this will result in broad-based improvement in nutrient management practices, we recognize that progressive approaches taken by some municipalities may be slowed or reversed; whereas, municipalities with no by-laws or weak by-laws may see an improvement in the measures to protect their resources.

Prescribing under the EBR

The ECO is particularly concerned that the *NMA* may not be subject to the *EBR* and does not believe that the public concerns regarding water quality will diminish unless the public feels it can participate and unless the regulatory system is transparent. The public has the right to be aware of and have input to nutrient management decisions.

The ECO commends OMAF and MOE on the extensive public consultations that took place during the development of Bill 81, and which have continued with the draft regulations. The ECO has repeatedly urged the ministry to prescribe the *NMA* under the *Environmental Bill of Rights*. If it is not, certain *EBR* rights may not be available to the public, including applications for review, investigation or leave to appeal, as well as the right to sue for harm to a public resource. OMAF has indicated that more time is required in order for the ministry to understand the implications of prescribing the Act under most sections of the *EBR*. In the interim, the ECO urges OMAF to prescribe the *NMA* under s.16 of the *EBR* so that the Act's new regulations are subject to notice and comment on the Environmental Registry. The ECO will be reviewing the regulations in our next annual report.

The *EBR* also provides a means for instruments, such as certificates, licenses, orders, NMPs and NMSs to be classified, and posted on the Registry so that the public can be advised of and participate in decisions that may affect them. The ECO believes that all instruments related to nutrient management for large agricultural operations should be prescribed under the *EBR*. This would also include biosolids, which are currently exempt. The ECO recognizes that some of these instruments, particularly NMPs and NMSs, may contain confidential information and would support the posting of summary information on the Registry. The opportunity already exists for instrument-holders under other environmental legislation to protect confidential information from public viewing.

Central Registry of NMPs and NMSs

The ECO believes that the proposed central nutrient management registry is a critical component and that it should include all NMPs and NMSs. Moreover, the ECO believes that it is essential that much of the data on the new registry be publicly accessible so that decision-making remains transparent and ministries are held accountable for their decisions on NMPs and NMSs. Since some information may be confidential such as farm production levels, the ECO would support limiting public access to summary data at the farm level.

Conclusion

Although the *NMA* has the potential to be part of the multi-barrier approach to water quality protection recommended by Commissioner O'Connor, the Act does not provide watershed-level protection of drinking water sources by itself, and OMAF and MOE have never made this claim. In April 2003, the Advisory Committee on watershed-based Source Protection Planning, whose purpose is to provide advice and direction to the government leading to the development of a provincial framework that will protect Ontario's drinking water sources, submitted its report to the government. The ECO is encouraged that the government has recognized that some key watershed issues remain unresolved, and will continue to follow developments.

MINISTRY OF ENERGY

Review of Posted Decision:
The Electricity Pricing, Conservation and Supply Act, 2002 (Bill 210)

Decision Information:

Registry Number: AO02E0001	Comment Period: 30 days
Proposal Posted: November 28, 2002	Number of Comments: 0
Decision Posted: December 30, 2002	Came into Force: December 9, 2003 (by Royal Assent)

Description:
Bill 210, the *Electricity Pricing, Conservation and Supply Act, 2002* limits the commodity price of electricity for low-volume consumers, (e.g., households and institutions) and promotes energy efficiency, load management and the use of alternative and renewable energy sources. Acts amended by Bill 210 include the *Assessment Act*, the *Corporations Tax Act*, the *Electricity Act, 1998*, the *Ontario Energy Board Act, 1998* and the *Retail Sales Act, 1998*. This review is confined to the amendments to Acts (i.e., *Electricity Act, 1998*; *Ontario Energy Board Act, 1998*) administered by the Ministry of Energy (formerly the Ministry of Energy Science and Technology and now abbreviated to ENG), an *EBR*-prescribed ministry. Many of the Bill 210 amendments are beyond the purview of the ECO as they apply to Acts (e.g., *Corporations Tax Act, Retail Sales Act*) which are administered by the Ministry of Finance, a ministry which is not currently prescribed under the *EBR*.

This omnibus legislation was the subject of a speedy authorization process. The legislation was enacted and became law before the standard *EBR* 30-day notice and comment period for the proposal closed. However, the majority of the Acts amended and many key elements of this legislation were of a financial, corporate and administrative nature. Furthermore, the Ministry of Energy (ENG) notified the public of the possibility of a shortened comment period in its proposal notice, consistent with ECO guidance in our 2000/2001 annual report.

Electricity Act, 1998
The *Electricity Act, 1998* (*EA*) was amended by Bill 210 in a variety of ways. One of the purposes of the *EA* was amended slightly to include the promotion of "energy conservation" and "alternative and renewable energy sources." Changes were made to s.19 of the *EA* altering the supervision and oversight powers of, and rule-making process to be applied by, the Independent Electricity Market Operator (IMO), a body which oversees Ontario's wholesale electricity market. However, many of these changes could be temporary in nature – lasting only until the Ontario government reverses the restrictions on the IMO by proclaiming other sections of Bill 210. A prohibition on electricity shut-off to a property for the winter of 2002/2003 was created in the *EA* through Bill 210. Another Bill 210 amendment to the *EA* created an exemption from gross revenue taxation for eligible new hydroelectricity generating capacity. An administrative change was made to the *EA* to permit the City of Toronto to use land, which was used by the former Ontario Hydro for electricity generating purposes. Other Bill 210 amendments to the *EA* set a time limit for municipalities to affirm the legal and administrative status of municipal

electricity systems. Also, Cabinet can now make regulations under the *Electricity Act* requiring that electricity meters or other devices which promote energy conservation be offered, installed or used.

One Bill 210 amendment to the *EA* narrowed the scope of persons who could seek a review of amendments (urgent or otherwise) to market rules from "any person" to "any person who is directly affected by the amendment." This will have the effect of limiting the persons who can seek a review to primarily market participants, e.g., the electricity generators. ENG contends that Bill 210 does not limit the ability to seek a review to just market participants, but rather it ensures that persons who are legitimately impacted by an amendment maintain access to this mechanism while avoiding unwarranted or "mischievous" use by persons who may be seeking to delay or overturn the process with being directly affected by it.

Furthermore, in the instance where the minister revokes an amendment, then subsection 32 (2) of the *EA* stipulates that any person can apply for a review of any amendment to market rules and the Ontario Energy Board shall undertake the review. This provision will cease to apply because of a Bill 210 amendment. ENG contends that this is a transitional measure only and that the Minister must be of the opinion that any amendments being revoked "unduly and adversely affect the interest of consumers with respect to prices or the reliability and quality of electricity service."

Ontario Energy Board Act

The *OEBA* had a provision to allow the Minister of Energy to issue directives to the Ontario Energy Board (OEB or "board") requiring the board to adopt Cabinet-approved directives involving policy of a general nature. This provision was amended by Bill 210 to allow the Minister of Energy to issue directives to the OEB requiring the board to promote energy conservation, energy efficiency, load management or the use of cleaner energy sources, including alternative and renewable energy sources; also, the Board's objectives were amended to this effect. Authority has also been added to the *OEBA* to permit the Minister of Energy to issue Cabinet-approved directives for the purpose of requiring the OEB to amend licences in a manner that is consistent with the directive. In effect, this is the means of ensuring that the conservation principles spelled out in a directive are put into operation in an OEB-regulated industry or organization. A similar provision existed in the *OEBA*, but to address the "abuse or possible abuse of market power in the electricity sector," not energy conservation.

Another Bill 210 amendment to the *OEBA* will permit net metering under conditions controlled by licence and regulation. Net metering is the means by which an electricity consumer who generates electricity and conveys it onto the distribution system, is eligible to subtract, for billing purposes, the electricity conveyed onto the system from the electricity he/she consumed from the system. Also, net metered customers can use the grid for storage, thus avoiding the installation of costly storage equipment.

Rebate

Bill 210 added two new sections, 79.1 and 79.2 to the *OEBA*. Section 79.1 requires distributors and retailers to make payments to certain consumers and section 79.2 requires the IMO to make payments to certain consumers. Further payments may be required by regulation. The purpose of the payments under these new sections was to reimburse consumers for part of the commodity price they paid for electricity between the opening of the market on May 1, 2002 and November 30, 2002.

Rate Cap
Bill 210 provides the *OEBA* with a means to set a fixed rate for the commodity price of electricity for most consumers by adding a new section (s.79.3) to the Act. Fixed electricity rates went into effect on November 11, 2002 and apply to electricity used on or after December 1, 2002. "Low-volume" consumers (see box) who do not request otherwise will pay a fixed rate, 4.3 cents per kilowatt-hour for the commodity price of electricity, until at least May 1, 2006. Other designated consumers will also be covered by the provision of the price cap.

Bill 210 broadened the range of products and services which may be marketed by an electricity distributor's affiliate by adding "energy conservation, load management, the use of cleaner energy sources, including alternative and renewable energy sources" to paragraph 9 of subsection 73(1) of the *OEBA* which formerly included only "energy efficiency." Under this expanded definition, an electricity distributor's affiliate could, for instance, market solar panels to consumers, not simply electricity or information about the methods to become more energy efficient (e.g., brochures about energy savings from low-energy lighting).

Electricity Consumer Definitions

Low-volume consumer means a consumer who annually uses less than 150,000 kilowatt hours of electricity or such other amount of electricity as is prescribed by the regulations. Owners and occupiers of single family dwellings and many small businesses will qualify for this exemption.

Designated consumer includes classes of consumers that use up to 250,000 kWh of electricity annually and have a demand load of less than 50 kW, and named institutions (schools, universities). This category is expected to capture most of the small businesses in Ontario.

Electricity Bill Language
The electricity bills which consumers had been receiving since May 2002 were detailed and reasonably complex because of a variety of terms and charges, such as "debt retirement charge," "transmission charge" and others. Because of amendments through Bill 210, the *OEBA* now requires the Minister of Energy to approve the form of invoices issued to low-volume consumers and other designated consumers.

Compensation
Bill 210 added a section (s.88.0.1) to the *OEBA* to deal with financial issues arising from the price cap and rebate described above, e.g., a provision to compensate distributors, retailers and the Independent Electricity Market Operator for payments made under sections 79.1 and 79.2 of the Act.

Regulation-Making Powers
Finally, Bill 210 identifies at least 32 specific areas in which Cabinet can make regulations under the *OEBA*, e.g., "prescribing an amount of electricity for the purpose of the definition of "low-volume consumer" in section 56."

The following text describes the thrust of some of the changes to non-*EBR* prescribed Acts.

Assessment Act
Bill 210 amended the *Assessment Act* to provide municipal property and school tax exemptions for new (or additions to) existing electricity generating facilities if the facility or the addition generates electricity from an alternative or renewable source of energy.

Corporations Tax Act
Bill 210 amended the *Corporations Tax Act* to provide income tax and capital allowance incentives to corporations that generate electricity from alternative or renewable sources of energy and create an income tax deduction based on the income derived from increasing the amount of electricity from an alternative or renewable source of energy. Another Bill 210 amendment would permit an eligible corporation to calculate its taxable paid-up capital for capital tax purposes as if it had taken advantage of the proposed 100 per cent accelerated write-off of the cost of property purchased to use in generating electricity from an alternative or renewable source of energy. Also, an amendment would allow Cabinet to make regulations extending the time period a corporation may carry forward non-capital losses incurred in operating a "qualifying" electricity generating facility. Finally, the Minister of Energy (or delegate) is now able to determine if property belongs to a particular class of property for the purposes of calculating a corporation's capital cost allowance.

Implications of the Decision:
These legislative amendments are intended to, or have achieved the following objectives:

- Change the administration of the IMO;
- Adjust the OEB's functions to focus further on energy conservation;
- Create a rebate mechanism for consumers of electricity;
- Establish a variety of financial incentives for producers of electricity from renewable or alternative energy sources.

Some of the measures could have a pronounced effect on energy conservation, the substitution of energy sources, and the development of renewable energy. Many of the measures have the ability to make positive contributions to a variety of air-related environmental initiatives of other prescribed ministries such as MOE. Examples include Ontario's Anti-Smog Action Plan and programs to limit the emissions of greenhouse gases and precursors of acid precipitation.

One interesting Bill 210 development is that Cabinet now has the authority to make regulations to establish net metering – if an electricity consumer generates electricity and conveys it onto the distribution system, net metering would enable the consumer to receive a credit on their electricity bill equivalent to the value of electricity generated. Such a provision could lead to consumers installing small, benign sources of electricity generation such as solar panels or wind turbines as they would now be provided a clear incentive for doing so. Regulations must still be made to bring net metering and numerous other Bill 210 powers into full effect. As of March 2003, ENG had not posted any regulatory proposals pertaining to Bill 210 on the Environmental Registry, however many of the regulation-making amendments are contained in legislation that is not subject to the *EBR*.

Public Participation & *EBR* Process:
The Ontario Government announced its package of reforms on November 11, 2002. On November 28, 2002 ENG posted its proposal for 30 days. No comments were made on this proposal. However, during the 18 months leading up to this proposal, an all-party committee of the Ontario legislature investigated and held consultations on some of the measures contained in this legislation. The Select Committee on Alternative Fuel Sources was appointed on June 28, 2001 with the mandate to "investigate, report and recommend ways of supporting the development and application of environmentally sustainable alternatives to our existing fossil fuel sources." In the summer of 2001, the Committee held public meetings and solicited input from industry, government and environmental organizations on all aspects of Ontario's fuel use and energy consumption, but with a particular view on options for diminishing Ontario's reliance on traditional fossil fuel sources. Replacement sources of interest included renewable (e.g., solar or wind) and alternative (e.g., biofuels, landfill gas) sources. Some of the companies, associations and agencies that made submissions to the committee included Automation Tooling Systems Inc, Canadian Natural Gas Vehicle Alliance, Canadian Wind Energy Association, Fuel Cell Technologies, Natural Resources Canada, Ontario Clean Air Alliance, Ontario Energy Board, Ontario Power Generation, Ontario Soybean Growers, Ontario Water Power Association and the Toronto Renewable Energy Co-Operative.

The proposal notice was written in straightforward plain language, including a definition for an uncommon term (net metering). A title was provided for each hypertext link to identify the document available through that link. Bill 210 itself included helpful explanatory notes about the nature of each Act's amendments. These features enhance the ability of the public to understand and participate in environmental decision-making.

SEV:
For its resource conservation objective, ENG cited Bill 210's strengthening of Ontario Energy Board objectives to promote energy conservation, energy efficiency and load management and its provision to permit Cabinet to make regulations requiring persons to use electricity meters for energy conservation purposes. For its environmental protection objective, ENG cited Bill 210's promotion of cleaner energy sources, including alternative and renewable energy sources. For its ecosystem protection objective, ENG suggested that this legislation will not result in any negative ecosystem impacts (the ECO notes that every type of energy project uses resources and has some impact on ecosystems; even small- to medium-sized hydroelectric facilities could have some negative ecological impacts). ENG's statement on public participation is somewhat cryptic, it reads "The public would have the opportunity to comment on the proposal through the Environmental Registry during a 30 day review and comment period." As noted, Bill 210 was moving through the legislative process before the comment period closed. Overall, however, many of the measures in Bill 210 are consistent with ENG's SEV objectives on resource conservation, and environmental and ecosystem protection.

Other Information:

Many of the energy conservation and source substitution measures found in Bill 210 are consistent with the comments and recommendations made by the ECO in past annual reports. See table below.

Select ECO Annual Report Comments, Ministry Commitments and ECO Recommendations on Energy Efficiency, Renewable Energy and Cooling System Redesign

Year	*Comments, Recommendations, Commitments*
2001-2002	"Toronto's deep lake water cooling project is an example of how conventional refrigerants can be replaced with a system with virtually no harmful impact on the atmosphere. ... The ECO believes that MOEE should articulate how it intends to deal with ozone-depleting substances outside the mobile sector (in particular, whether MOEE and MAH have a plan for encouraging more environmentally benign cooling systems for Ontario's building stock)." p.163-5.
2000-2001	"The ECO encourages MEST* to continue to develop improved minimum energy efficiency standards in Ontario, and to resume a leadership role in developing these standards with other jurisdictions." p.127
1999-2000	"As the [electricity] market develops, MEST will examine, as appropriate, the need and extent for adopting energy efficiency measures." p.93 "The ECO recommends that MEST prescribe relevant portions of the *Ontario Energy Board Act* and the *Electricity Act* under the *EBR* so that environmentally significant regulations under these laws will be posted on the Environmental Registry for public comment." p.94
1998	Recommendation 13, pg. 65 In order to ensure that Ontarians have access to safe, reliable and environmentally sustainable energy supplies, MEST should: • develop, in consultation with the public, further mechanisms necessary to protect the environment, consistent with the Market Design Committee's final report and MEST's SEV commitment. • establish and carry out programs to reduce consumer energy demand and clearly support and promote both public and private sector energy efficiency initiatives. • set targets for the increased production of renewable energy, and develop and implement programs that will encourage the development of renewable energy in the province. • track and report annually on the "mix" of electricity generation in the province. • report annually on progress in meeting its goals and targets for energy efficiency and renewable energy. • develop regulations to limit emissions of CO_2, mercury and toxics from electricity generators to come into force when a competitive electricity market is formally established. p.65. Recommendation 27, pg. 145 • MEST should prescribe relevant portions of the *Ontario Energy Board Act* and the *Electricity Act* under the *EBR* for the posting of proposed regulations to ensure that the notice and comment provisions of the *EBR* apply to environmentally significant regulations developed by MEST under these two laws. • MOE, MMAH and MEST should clarify their policies on the types of energy projects that would be subject to provincial approvals and place these policies on the Environmental Registry for public comment. • MOE and MEST should create an emissions inventory for all electricity generators operating in the province. This inventory should be developed in tandem with the regulatory requirements under the revised *OEBA* that retailers file reports and evidence on contaminant emissions, generation processes and fuels burned with the Ontario Energy Board. • MOE should analyze the data on emissions from electric generators to determine air pollution trends, and release an annual report based on its analysis. • MEST should establish measurable goals to encourage reduced consumer energy demand and should clearly support and promote both public and private sector energy efficiency initiatives. p.145.

* Note: At the time of these comments, ENG was the Ministry of Energy, Science and Technology (MEST).

An analysis of Bill 210 in a January 2003 publication of the Independent Power Producers' Society of Ontario speculated that the *EA* and *OEBA* changes will discourage the development of new electricity generating capacity by the private sector. Specifically, it indicated that "freezing retail prices will be a disincentive to new Greenfield supply, one which will not likely be offset by the tax incentives." The analysis went on to project that generation related to the net billing provision might be an exception.

ECO Comment:
In 1998, ECO wrote that the Ministry of Energy should "develop and implement programs that will encourage the development of renewable energy in the province" and "establish measurable goals to encourage reduced consumer energy demand." In 2001/2002, ECO commented on the need for a plan to encourage "more environmentally benign cooling systems for Ontario's building stock" like Toronto's deep lake water cooling project. Measures in Bill 210 will promote renewable energy, energy conservation and more environmentally benign cooling systems.

The ECO welcomes the legislative amendments of Bill 210 that promote energy conservation, efficiency and use of renewable energy. The ECO suggests expediting the posting of regulatory proposals on the Registry in order to bring form to many of these legislative powers as soon as possible. Regulations were made under some of the Acts amended by Bill 210 as early as December 2002, however the regulations dealt with matters that were not of an environmental nature, e.g., payments to be made to consumers. ECO will monitor the posting of environmentally significant regulatory proposals related to Bill 210 by ENG, MOE, MBS and other ministries in the coming months.

Some of the Bill 210 measures may lead to further integration or convergence of energy services whereby a municipal energy distributor markets to consumers more than just electricity or natural gas, e.g., solar panels, energy efficiency, alternative fuels, load management or other products and services which result in some form of energy conservation. Also, the development to enable net metering is environmentally positive as it could lead to the installation of more benign sources of electricity generation and a more distributed system of generation across the province.

ECO would also welcome an annual accounting of, and public reporting by ENG, on the effectiveness of the various Bill 210 incentives to encourage the development of renewable and alternative energy sources.

Finally, it is important to note that Cabinet has retained discretion to reverse many of the Bill 210 measures which re-regulated the electricity market, such as the *Electricity Act* amendments pertaining to the Independent Electricity Market Operator. This was done by including in Bill 210 clauses which can revoke other clauses put in place by Bill 210 when the former are proclaimed, i.e., without requiring new legislation. Thus, a future Ontario government may again attempt to deregulate certain aspects of the electricity sector and allow the price of electricity for all consumers to fluctuate in the market. Further evidence of this likelihood includes the fact that the electricity rate cap will expire, unless renewed, in the year 2006. Renewable and alternative sources of electricity as well as conservation would likely benefit from a fluctuating, but higher average, electricity price.

MINISTRY OF THE ENVIRONMENT

Review of Posted Decision:
Canada – Ontario Agreement Respecting The Great Lakes Basin Ecosystem

Decision Information:

Registry Number: PA01E0023	Comment Period: 61 days
Proposal Posted: September 28, 2001	Number of Comments: 44
Decision Posted: June 13, 2002	Decision Implemented: March 22, 2002

Description:

More than 10,000 years ago, glaciers scoured Ontario to form valleys which were subsequently flooded with meltwaters. The largest of these valleys became the five Great Lakes. Today, the Great Lakes hold about 20 per cent of the surface freshwater in the world and span a length of more than 1,200 kilometers. By 1850, the population of the Great Lakes Basin had grown to over a million people, and with this growth came reports of epidemics and drinking water restrictions in Chicago and Hamilton due to sewage contaminating the water. To prevent disputes over water quality, the United States and Great Britain (on behalf of Canada) signed the Boundary Waters Treaty in 1909 which stated that "boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other." To oversee the Treaty, the International Joint Commission (IJC) was created, and to this day addresses Great Lakes water quality issues.

Today the Great Lakes Basin is home to more than 33 million Canadians and Americans. About one third of Canada's population relies on it for their health and well-being. It provides drinking water and recreational opportunities for millions of Canadians and provides water for power generation, manufacturing and shipping to 45 per cent of Canada's industries. The Basin is fundamental to the economic well-being of Ontario and Canada.

However, the Great Lakes have continued to be impacted by toxic chemicals, human and animal waste, agricultural runoff, and manufacturing waste. The situation eventually reached crisis position in 1969 when oil floating on the surface of the Cuyahoga River near Cleveland caught fire, receiving international attention and a call for action. In the early 1970s, Lake Erie's condition was considered to be so deteriorated, primarily due to phosphorus loading, that it was being called "dead." Also by this time, populations of bald eagles, double-crested cormorants and other species had almost disappeared due to reproductive failure and developmental abnormalities caused by PCBs, DDT and other organochlorine pollutants. Some recreational and commercial activities had ceased; and the water was unfit for drinking without considerable treatment.

In response, Canada and the United States signed the Great Lakes Water Quality Agreement (GLWQA) in 1972 which required government, industry, agriculture and citizens to clean up the Great Lakes. In 1978, the Agreement was revised to require the virtual elimination of those substances that persist in the Great Lakes such as PCBs and dioxins; and in 1983, to reduce phosphorus loading. In 1987, the Agreement was again revised to require the clean up of 42 (eventually 43) Areas of Concern (AOCs) and was expanded to include additional sources of pollution such as runoff from land, contaminated sediment, airborne pollutants, contaminated groundwater and non-native invasive species.

The first Canada – Ontario Agreement Respecting the Great Lakes Basin Ecosystem (COA) was signed in 1971 to allocate responsibilities and roles between the federal and provincial governments with respect to cleaning up the Great Lakes. Since 1972, COA has formed the basis by which Canadian obligations under GLWQA have been met. Over the years COA has contributed to reducing the loading of pollutants such as PCBs, DDT and phosphorus entering the Basin, restoring habitat for fish and other wildlife, and improving the safety of the water for drinking and swimming. The last COA was signed in 1994 and expired in April 2000.

On March 22, 2002, a new five-year COA was signed by the federal and provincial governments led by Environment Canada (EC) and Ministry of the Environment (MOE) respectively. It commits the Canadian federal and Ontario provincial governments to work together "to understand, restore and protect the environmental quality of the Great Lakes Basin ecosystem." COA applies to the five Great Lakes, the waters which drain into the Great Lakes, and the St. Lawrence River from Lake Ontario to the Ontario-Quebec border.

SIGNING PARTNERS to COA	
FEDERAL DEPARTMENTS	**PROVINCIAL MINISTRIES**
Environment Canada Department of Agriculture and Agri-food Department of Canadian Heritage Department of Fisheries and Oceans Health Canada Natural Resources Canada Department of Public Works and Government Services Transport Canada	Ministry of the Environment Ministry of Natural Resources Ministry of Agriculture and Food

COA – Vision and Management

COA states that the signing parties will be guided by a vision of a "healthy, prosperous and sustainable Great Lakes Basin Ecosystem for present and future generations," and that "Canada and Ontario commit themselves to providing the resources needed to implement the Agreement and the Annexes pursuant to it" for a five-year period. COA includes four Annexes which define joint goals, results and activities for the federal and provincial governments.

The signing parties have developed 12 principles to guide the federal and provincial actions under COA including: accountability, free exchange of information, pollution reduction, precautionary principle, prevention and public and stakeholder participation.

A Management Committee co-chaired by EC and MOE is responsible for delivering the commitments in COA. Although there is no provision in COA for stakeholders or the public to be represented on the Management Committee, EC has committed to forming a stakeholder group. This action should address a widespread concern expressed by commenters of the lack of public involvement in Management Committee decision-making. EC has advised the ECO that the group is in the process of being formed and a Terms of Reference and budget have been drafted. Every two years, the Management Committee is required to publish a progress report and a State of the Lakes report.

Annexes - Overview

The Annexes establish joint federal-provincial goals, priorities and objectives. New Annexes may be created at any time, and Annexes may be amended or terminated. COA defines the minimum content for new Annexes to ensure that the overall objectives and principles are achieved, and requires that the public be consulted whenever Annexes are being developed, amended and/or terminated.

The Annexes define two subcommittees to oversee the activities of three of the Annexes. However in November 2002, EC advised the ECO that the two subcommittees described by COA have been replaced by a single subcommittee called the Annex Implementation Committee (AIC) which is responsible for the delivery of all results in all four Annexes. The AIC co-chaired by EC and MOE presented a draft workplan in March 2003 to the Management Committee and expects the plan to be approved in the Fall 2003. The AIC also coordinates the implementation of the workplan, updates the workplan annually by June 1st, and prepares progress reports. Workplans and progress reports are to be submitted to the Management Committee for review and approval.

Annex - Areas of Concern (AOC)

The GLWQA recognizes that there are specific areas where beneficial uses have been impaired called AOCs within the Great Lakes Basin ecosystem. Impairments of beneficial use include: restrictions on fish consumption, bird or animal deformities, undesirable algae, restrictions on drinking water consumption, and beach closings. With respect to the 16 AOCs in Canada, the following goals have been defined:

- restore beneficial uses in at least two AOCs. As of October 2002, this goal had been achieved for the Severn Sound AOC;
- complete all required actions for Remedial Action Plans (RAPs) in at least six AOCs. For each AOC, this Annex defines who will provide leadership—the federal or provincial government or both. Four AOCs are to be jointly led by the federal and provincial governments; and
- make progress towards rehabilitation of ecological systems in the remaining AOCs.

Funding will be provided to:

- the agricultural community for environmental stewardship projects;
- municipal and regional planners to complete and implement natural heritage and fish habitat management strategies; and
- local organizations to facilitate RAP implementation.

Municipalities will be considered for capital assistance through the Canada-Ontario Infrastructure Program for sewage treatment plant upgrades and combined sewer overflow issues, and for research into new technology.

Annex - Harmful Pollutants
GLWQA identifies three approaches regarding harmful pollutants: prevention, reduction and virtual elimination with an emphasis on those substances that are toxic, remain in the ecosystem for a long time and accumulate in wildlife. COA has the following three goals:

- make progress towards the eventual virtual elimination of persistent, bioaccumulative, toxic substances such as mercury, dioxins, furans and PCBs;
- reduce other harmful pollutants such as sulphur and nitrogen oxides; and
- obtain comprehensive knowledge of the sources, movement, fate and impact of harmful pollutants.

Annex Management Leads for each substance(s) have been established. No specific funding commitments are included.

Annex - Lakewide Management
GLWQA recognizes that rehabilitation of AOCs on a Great Lake will not be sufficient to rehabilitate the entire lake and that separate lake-specific plans are required. This Annex identifies three goals to address "impairments caused by stresses such as harmful pollutants, habitat loss, nutrient loadings and non-native invasive species" on a lake:

- understand the environmental problems and causes of ecological impairment;
- broad-based support for environmental restoration, protection and conservation; and
- progress on habitat restoration/protection and reduction of the impact of harmful pollutants.

Funding will be provided to:

- the agricultural community to assist with the adoption of environmentally sound farm management practices;
- Lake-wide Management Teams to enhance implementation of plans; and
- academia to conduct research.

Annex - Monitoring and Information Management
This Annex recognizes that accurate information regarding trends in environmental quality is critical to the effective implementation of COA and therefore identifies two goals: coordinated and efficient scientific monitoring; and creation of an information management system for tracking environmental change and progress.

No specific funding commitments are included.

Implications of the Decision:
COA will assist the federal government in meeting its obligations under GLWQA and will guide decisions made by the federal and provincial governments with respect to the Great Lakes Basin ecosystem for the five-year term of the Agreement. COA recommits the federal and provincial governments to providing coordinated and directed leadership and management of Great Lakes initiatives including leadership of the RAP teams. Some of these commitments had been withdrawn or reduced in the past. By establishing five-year goals, priorities and results, COA will assist the governments with establishing annual priorities and results.

Recognizing the complexity of rehabilitating the Great Lakes Basin ecosystem, COA has included a mechanism to respond to specific and/or unique challenges through the use of Annexes, workplans, and the management structure without having to renegotiate the Agreement and with the knowledge that changes are being made within the context of the five-year goals. The Management Committee and the AIC, in particular, have the opportunity to identify overlaps and gaps in the workplans, to share expertise, and to re-affirm or revise priorities and resourcing on an annual basis.

COA has extended the work related to virtual elimination of persistent, bioaccumulative, toxic substances with priority being given to PCBs, mercury, dioxins and furans. Commitments have been made to destroy all PCBs in storage by 2008 and to phase out PCBs still in service. 1994 COA commitments to reduce mercury releases by 90 per cent by 2000 have been extended to 2010, and similarly for dioxins and furans to 2005. COA also recognizes the impact of smog and other pollution sources with commitments to conduct research into contaminated sediment, ship source pollution and biosolids, and to reduce air pollutants. Sulphur concentrations in gasoline and in diesel will be reduced to 30 and 15 parts per million respectively, and reductions in nitrous oxide and VOC emissions will be accelerated although no specific targets are documented.

A focus on monitoring, data collection and sharing, and the development of a common information management system has the potential for improved understanding of the Great Lakes Basin ecosystem. Earlier detection of changes and trends should result in better and more timely decision-making. Research will be conducted into the sources of harmful pollutant releases and existing air monitoring programs will be expanded to monitor mercury, dioxins and furans, and other pollutants. A pilot project will integrate provincial and federal air emission reporting requirements to facilitate the development of a common database of harmful pollutants and tracking the releases to air. There are also commitments to research the impact of endocrine-disrupting substances and to monitor non-native invasive species. The results of these activities and others are expected to improve our understanding of their impact on human and environmental health.

Public Participation & *EBR* Process:
In the fall of 2001, MOE posted a regular notice on the Environmental Registry with a comment period of 61 days. At the same time, EC also provided the public with opportunities to submit comments. A total of 44 commenters participated and all comments were shared by MOE and EC.

Although many commenters did not agree with the specifics of the Agreement, there was widespread support for the need for COA and of its vision and principles. A detailed review of public comments indicated the following recurring concerns.

Funding

Nine commenters expressed concern regarding the lack of funding details for the various activities. They were concerned that dollar amounts were not specified; priority activities/groups to receive funding were not identified; procedures and timeframes for applying for funding were not specified; and some commitments were qualified such that governments were not obliged to provide the funds.

Measurable Targets, Accountability and Independent Review

Ten commenters expressed concern that measurable targets were often not provided in the Agreement or in the Annexes. As a result government performance cannot be objectively measured. There was also a concern that governments would be self-monitoring and self-reporting their performance against COA goals and results, and on the state of the Great Lakes Basin ecosystem. It was suggested that an independent party should be accountable for both of these reports.

Non-native Invasive Species

Several commenters noted their support for including activities regarding non-native invasive species, but suggested that COA did not sufficiently recognize the impact of these species and that COA should include timelines and targeted reductions in the number of organisms introduced into the Great Lakes Basin.

MOE Response to the Comments

The decision notice on the Registry did provide an explanation regarding the handling of a few comments however commenters were advised that "comments received that relate to the implementation phase will be considered during the development of the detailed individual workplans" and "requests to include issues such as climate change, brownfields and groundwater are addressed under other policy initiatives currently underway."

The ECO suggests that the types of comments that will be addressed during the implementation phase and a listing of the other ongoing policy initiatives could have been documented to reassure the commenters that their concerns were being considered. It would also have been helpful if MOE had reassured the commenters that workplans will address concerns regarding funding, measurable targets and accountability. MOE provided no response to the suggestion for an independent review of performance.

SEV:

The Statement of Environmental Values (SEV) for MOE states that its mandate is "to protect the quality of the natural environment so as to safeguard the ecosystem and human health." Underlying this mandate, MOE states that the ministry will use an ecosystem approach, conserve resources, and protect the environment based on the precautionary principle and prevention. The SEV goes on to state that in making decisions, the ministry will use "science that meets the demanding standards of the scientific community"; will consider social and economic factors; and will involve and consult with First Nations.

In the briefing note provided to the ECO, MOE indicated that the principles related to ecosystem approach, environmental protection, resource conservation, science-based decision-making and public participation have all been included as principles in COA. Elsewhere, COA states that "the cooperation of the Basin's residents, Aboriginal People, industries, businesses and non-governmental organizations" will be required to restore the Great Lakes. The ECO concurs with the briefing note provided by MOE and believes that the 2002 COA is consistent with MOE's SEV.

Other Information:

In the 11th Biennial Report on Great Lakes Water Quality, published September 2002, the IJC stated that the GLWQA "has generated neither enough action nor full recovery" and urged a more aggressive approach. The IJC identified three priorities:

- improve collection and accessibility of reliable monitoring data and development of indicators of Great Lakes quality;
- resource and fund the clean up of contaminated sediment which IJC considers to be the largest source of persistent, toxic substances in the Great Lakes; and
- immediately strengthen the regulations and enforcement of ballast management practices to reduce the introduction of non-native invasive species.

These concerns had also been raised by the federal Commissioner of the Environment and Sustainable Development for Canada in her 2001 report.

Furthermore, the IJC is growing concerned that progress made in the past is being reversed due to the introduction of new or previously unrecognized threats to the Great Lakes which are not well understood nor are they being monitored such as pharmaceuticals from sewage treatment plants potentially affecting wildlife and humans, and flame retardant chemicals. The latter chemicals are widely used and are more toxic than PCBs. In February 2003, the IJC advised the federal government that non-native invasive species are now the number one threat to the ecological and economic health of the Great Lakes Basin. The IJC noted that billions of dollars have been spent to control zebra mussels.

In our 1997 annual report, the ECO noted that MOE had stopped almost all funding to the RAP Public Advisory Committees, closed some testing labs that were being used by some RAPs, eliminated most of the RAP Coordinator positions, and indicated that RAPs would need to fund their activities from the private sector or other donors. Because these changes were made without appropriate public notice and without alternative service delivery systems being in place, the ECO was concerned that some RAPs would have difficulty achieving their year 2000 objectives.

In the 1999/2000 annual report, the ECO reviewed the provincial government's performance under the 1994 COA and concluded "that most targets were still unmet by the time the agreement expired, especially those targets with direct impacts on the environment." Four reasons were proposed as contributing factors:

- funding and staffing cuts by all participants despite prior commitments;
- targets set without identifying who was accountable and targets set for participants who had not signed the agreement;
- targets set without measurable performance indicators; and
- inadequate project management and quality control.

Similar concerns were identified by the federal Commissioner of the Environment and Sustainable Development regarding the federal government's performance.

ECO Comment:

The challenges of preventing, eliminating and reducing toxic substances in the Great Lakes and preventing non-native invasive species from entering the Great Lakes are very complex. Adding to the complexity is that recovery of the Great Lakes Basin ecosystem involves the Canadian and U.S. federal governments, eight state governments, two provinces, and hundreds of regional and municipal governments on both sides of the border. The 2002 COA attempts to meet these challenges by defining the processes and activities necessary to achieve the goals and results. COA places the role of leadership and management in the hands of the federal and provincial governments, and in particular of Environment Canada and the Ontario Ministry of the Environment. However, the ECO is concerned that some of the factors that hampered progress under the 1994 COA have still not been adequately addressed and could limit achievement of the specified goals.

Funding and Staffing

In the 1994 COA, the provincial and federal governments agreed to equally share the cost of meeting the objectives of the Agreement. It was estimated that $2.5 billion were needed to achieve the objectives in the 1994 COA. In the 2002 COA, the provincial and federal governments agree to provide the resources needed to implement the Agreement and to create "opportunities for others to contribute to achieving the visions of the Agreement." The cost to achieve the five-year goals is not specified.

MOE has advised the ECO that Ontario is providing $51.5 million to clean up the Great Lakes over the next five years. Funding would be directed to clean up of contaminated sediment in AOCs, increased monitoring, reducing the amount of harmful pollutants entering the Great Lakes, information management and habitat rehabilitation. The ECO is encouraged but is concerned that there are no specific, funding commitments for many of the activities described in the Annexes and that funding will not be sufficient. For example, the provincial government spent $23 million to restore one AOC – Severn Sound. With 15 AOCs still needing attention, it is reasonable to expect that AOC remediation activities alone will cost significantly more than $51.5 million. Despite the general commitment to provide the resources needed to achieve the goals, the ECO is concerned that the issues regarding funding and staffing have not been addressed and believes that firm, ongoing commitments are required if the goals are to be achieved. It will also be important for MOE to specify and itemize annual funding and staffing commitments and to publish regular, clear updates on its funding activities under the 2002 COA.

Accountabilities

The 2002 COA states that workplans must include "the activities and deliverables of each contributing agency in relation to the specific results and commitments articulated within the Annex." EC has advised the ECO that the COA workplan will clearly identify the accountable unit within each of the signatories to the Agreement and that the AIC plans to make a summary version available to the public. The ECO is encouraged that prior concerns regarding accountability are being addressed.

Measurable Performance Indicators and Quality Control

During the public consultation on the draft 2002 COA, concerns were raised that measurable targets were not always provided which in effect removes any basis on which government performance can be objectively measured. EC has since advised the ECO that measurable targets, and the government units responsible for meeting them, will be clearly identified in the 2002 COA workplan, and that a summary version of the workplan will be published for public viewing. The 2002 COA is an important step in advancing the rehabilitation of the Great Lakes Basin, and the ECO is encouraged that prior concerns regarding targets are being addressed.

Quality control measures in COA include an annual internal assessment against objectives, biennial progress reports and State of the Lakes reports, and publication of the biennial reports. A "comprehensive review of the effectiveness of this Agreement in the fifth year" with public input and publication of the results is also required. The ECO agrees that all of these measures are important and necessary. However, the ECO found that progress reports prepared under the 1994 COA were "largely self-congratulatory in tone" and lacked clear statements regarding progress and the barriers encountered. Therefore the ECO believes that the biennial reports should be subject to a formal, independent review.

Non-native Invasive Species

The ECO is concerned that commitments to combat non-native invasive species do not reflect the seriousness of the problem. In February 2003, the IJC advised the federal government that non-native invasive species are now the number one threat to the economic and ecological health of the Great Lakes. Although Canada and the U.S. are spending billions of dollars combating zebra mussels and sea lamprey, new non-native invasive species such as the round goby and the spiny water flea continue to enter the Great Lakes. The ECO believes that Canada and Ontario should develop a coherent strategy specifically to deal with non-native invasive species. Current remedial efforts will be undermined unless effective and aggressive control measures are taken to stop the entry of new non-native invasive species and to limit the impact of existing non-native invasive species.

Conclusion

The signing of the 2002 COA is an important first step to advancing the rehabilitation of the Great Lakes, and it can be used as the basis for meeting our commitments under the GLWQA. The use of Annexes, workplans and the management structure provides the federal and provincial governments with a useful tool to respond to new or specific pollution challenges without having to renegotiate the Agreement. Clarifying RAP leadership should re-invigorate RAP activities in Ontario's AOCs.

The ECO is also encouraged that prior concerns regarding targets and accountability are being addressed. However, this information must be clearly documented for the public and an independent review of progress is necessary to ensure transparency and to provide greater assurance of progress. In addition, without firm, ongoing funding from MOE and the other provincial signing partners, the ECO is concerned that the implementation of COA may not achieve significant improvement in Great Lakes water quality in the next five years. The ECO is also concerned that remedial efforts will be undermined unless a coherent strategy is developed to deal with non-native invasive species.

Review of Posted Decision:
Budget Environmental Disposal Ltd.: Approval for a Waste Disposal Site

Decision Information:

Registry Number: IA01E0066	Comment Period: 30 days
Proposal Posted: January 15, 2001	Number of Comments: 334
Decision Posted: June 13, 2002	Decision Implemented: June 6, 2001

Description:
In early 2001, the proponent, Budget Environmental Disposal Ltd (Budget) applied to MOE for the construction and operation of a new waste disposal site for the transfer and processing of non-hazardous solid waste from residential, industrial, commercial and institutional sources. The proposed site was located in the Regional Municipality of Hamilton-Wentworth. The waste and recyclable material to be received at the site consists primarily of construction and demolition (C & D) debris. Processing would involve the sorting of recyclable material from waste to be sent for final disposal. The proponent indicated recoverable materials could include concrete, asphalt shingles, paper fibre, metal, wood, drywall and other C&D wastes.

The proponent requested that MOE grant a Certificate of Approval (C of A) allowing the facility to receive a maximum daily quantity of one hundred tonnes of waste per day at the facility. In addition, the proponent sought approval to transfer up to one hundred tonnes of waste per day from its facility and move it to a separate disposal facility, and that the C of A allow Budget to store up to one hundred and fifty tonnes of recyclables and wastes on site at any one time. The proponent proposed that a maximum storage time of ninety days would apply for recyclable material and a maximum storage period of seventy-two hours was proposed for residual wastes. The proponent also proposed to store sorted recyclables in covered roll-off bins in an outdoor storage area.

After submitting the initial application, the proponent agreed to several changes to the proposal as a result of public submissions and input from MOE. MOE granted approval of the waste disposal site in June 2002 with the following revisions:

- Restricting the loading and unloading of the outdoor storage bins to within the building only, so that there would be no outdoor loading or unloading of bins.
- Revising the hours of operation from 4:30 am to 7:00 pm, six days per week, to 7:00 am to 8:00 pm, six days per week.
- Incorporating a vector and vermin control program.

Implications of the Decision:
According to comments submitted by the City of Hamilton, the subject lands are located within approximately 17m of residential land use. MOE's own procedures state that incompatible development, including residential, should not normally be located within 20 metres of Class I industrial operations. A Class I operation produces noise that is not audible off the property, infrequent dust or odour that is not intense, no ground-borne vibration and infrequent heavy truck movement. Even greater separation distances are recommended for classes of industrial operations with more serious adverse effects.

Given the close proximity of the site to the residential community, the City felt that the occurrence of dust and litter as a result of the facility's operations could have an adverse impact on the local environment. In terms of human health, dust poses a great risk of discomfort for those with allergies and/or respiratory illnesses. The environmental effects of dust include reducing water clarity in nearby ponds, thus changing the ecology of those ponds. MOE and the company addressed these concerns by ensuring dust suppressant is frequently sprayed on all unpaved outside areas and that the building is vented through a fan or fans equipped with dust filter(s). Litter, on the other hand, creates visual pollution. To keep litter under control, the C of A issued by MOE contains a condition requiring daily inspection for the presence of litter and litter pick-up, when necessary. The company also proposed to ensure that all vehicles transporting waste to and from the site be covered.

The company was required to substantially revise its proposal to address all issues related to noise identified by the ministry and the City of Hamilton. MOE incorporated a number of changes to the C of A to mitigate noise impacts on residential land uses, such as revising the building orientation and construction, loading door locations, landscaping, on-site traffic patterns, and the outdoor storage location. Additionally, as a separate measure under the rubric of its municipal Noise By-Law, the City of Hamilton required the company to undertake a noise assessment prior to any building construction at the site.

With added traffic to the area in which the waste disposal site is to be located and the nature of the debris, concerns for the well-being of the residents, specifically children, were raised by the public. MOE reviewed the proposed design and operating procedures for the facility to ensure that the existence of the facility in the area would not cause any safety hazards. As well, MOE imposed a condition to make certain the site is kept secure against trespassing.

Public Participation & *EBR* Process:
The proposal was posted on the Registry for a 30-day comment period. As discussed above, the ministry received 334 comments, all of which opposed the application for the waste disposal site. Members of the community expressed concerns relating to noise, odour, traffic, vermin, air pollution, litter, safety, appearance of the facility, and the handling of hazardous materials.

According to MOE, all comments received were carefully reviewed and considered. The concerns were addressed either by modifications to the original proposal presented by the company or by imposition of specific conditions in the C of A.

SEV:
Once a ministry identifies a proposal for an environmentally significant decision, it must consider its Statement of Environmental Values (SEV). As reported in the ECO's 1994-1995 annual report, MOE takes the position that the ministry is not required to consider its SEV when it makes decisions on instruments. Thus, ministry staff would not have considered MOE's SEV in making this decision. As pointed out in the 1994-95 annual report, the ECO strongly disagrees with MOE's interpretation of how the SEV requirements apply to instruments. The

ECO believes that all environmentally significant decisions of the ministries are subject to the SEV consideration under Section 11 of the *EBR*.

Other Information:
The City of Hamilton submitted several comments during the comment period in addition to submitting a separate document with recommendations to MOE in reviewing the application for the Budget Environmental Disposal site. The City of Hamilton played a large role in the review process, and in working with the proponent and MOE to develop a C of A that would take into consideration the concerns of local residents.

ECO Comment:
The ECO commends the ministry for addressing the concerns raised by the public and the City of Hamilton. Neither MOE nor the proponent addressed certain comments made by the public relating to the possible odour emissions and the handling of hazardous waste. However, these types of concerns should not arise given the nature of the waste (i.e., construction and demolition waste) being handled at the site. In granting the final C of A, MOE emphasized the responsibility of the company in ensuring that the site is operated in a manner that does not result in a nuisance or a hazard to the health and safety of the environment or people. Additionally, MOE has added a condition that, in the event complaints are made to the proponent or MOE by the public, the proponent is required to ensure that they are resolved effectively and quickly.

Review of Posted Decision:
Reporting Requirements – Sulphur Levels in Gasoline

Decision Information:

Registry Number: RA01E0018	Comment Period: 30 days
Proposal Posted: August 23, 2001	Number of Comments: 5
Decision Posted: July 12, 2002	Came into Force: September 1, 2002

Description:
Sulphur which occurs naturally in fossil fuels such as gasoline, diesel and coal, is known to cause environmental problems such as acid rain and smog when the fuel is combusted. Providing consumers with information about the sulphur content of gasoline and encouraging them to make better choices about the gasoline they use is one potential means of curbing emissions of this pollutant. In June 2002, the Ontario Government passed a regulation that requires gasoline manufacturers, blenders and importers in Ontario to report the average level of sulphur in their gasoline to MOE, on a quarterly basis, within 45 days of the end of each calendar quarter. The information will be made available on MOE's website. This initiative is an interim option until Dec. 31, 2004; as of Jan. 1, 2005 gasoline retailers will be required by federal regulation to sell gas with less than 30 ppm of sulphur on a pooled average basis (e.g., an average derived from all of a company's refineries) while 80 ppm will be the maximum allowable sulphur content of any gasoline complying with the regulation. In this comment process, MOE was particularly interested in receiving comments on the proposed mechanism for sharing the information.

Detailed Background
Both the federal and provincial governments currently regulate aspects of gasoline content. The federal government has made regulations regarding the sulphur content of gasoline under the *Canadian Environmental Protection Act* and Ontario has made regulations limiting the content of volatile organic compounds (related to smog) of gasoline under Ontario's *Environmental Protection Act*.

High sulphur gasoline became a prominent issue in the media in the late 1990s when an environmental organization, Friends of the Earth, used the courts to force Environment Canada to release information about the sulphur content of gasoline nation-wide. Companies that had submitted sulphur content information to Environment Canada had opposed its release, but a federal Court of Canada action prompted them to reverse their initial position and release it. The information revealed that while the nation's average sulphur content of gasoline was 320 ppm in 1999, Ontario's average was 460 ppm, with some refineries producing gasoline with levels in the high hundreds of parts per million. The reason for this trend according to some sources, was the advanced age of Ontario's oil refineries compared to those in other parts of the country. While some provinces like British Columbia have regulated sulphur content and some have argued that Ontario could do so as well, there are certain advantages to uniform nation-wide rules on gasoline content, particularly for the refining industry. Further, Ontario has maintained that sulphur levels in gasoline are a federal jurisdiction, while the provinces are responsible for regulating air emissions.

The federal government established a regulated phase-out program for high sulphur gasoline in June 1999 by passing the "Sulphur in Gasoline Regulations" made under the *Canadian Environmental Protection Act*. The regulations set limits on the amount of sulphur in gasoline produced or imported starting on January 1, 2002. Producers and importers may opt for limits based on either a batch or yearly pool average. The regulations also prohibit the sale of gasoline with a sulphur level exceeding the prescribed concentration. The regulations will require sulphur levels in complying gasoline not to exceed:

- 150 parts per million (on a pooled average basis) as of July 1, 2002;
- 30 parts per million (on a pooled average basis) as of January 1, 2005.

In May 2000, Ontario's environment minister issued a news release criticizing the federal action as too slow, saying "Sulphur is a major contributor to smog…Ottawa has the power to act…[t]he sooner action is taken, the sooner Ontarians will breathe easier." Later, in June of that year, the minister told the Ontario Legislature's Standing Committee on Estimates that ministry staff were "working on a draft regulation at this point that will actually see the posting of the sulphur content on pumps so that consumers will have that information. I know there's been a lot of discussion as to which refinery has the lowest sulphur content. What we want to do is ensure that consumers have that information so that when they fill up they will be able to look at the pump and know the sulphur content of the gasoline, because I don't think we ought to wait five years for the federal government to reduce the sulphur level in gasoline."

In July of 2002, the new Minister of the Environment announced that his ministry would begin requiring oil refineries to report the sulphur content of their gasoline and MOE would post this information on its website, but not require refiners to post this information at any point of distribution or purchase of gasoline.

Implications of the Decision:

MOE's decision to proceed means that refiners will have to submit information about the sulphur levels in gasoline they distribute and consumers will have access to information about the sulphur levels in the gasoline they purchase. This regulation appears to be an effort by MOE to persuade gasoline refiners to speed up their shift to lower sulphur levels in gasoline and may also have been developed to pressure the federal government to accelerate its implementation schedule for its sulphur regulations under *CEPA*. However, it is unlikely that MOE's regulation will have much practical effect, since the information will not be conveniently located near the point of purchase, will not likely be timely or current, and may not even accurately reflect the composition of the gasoline in retailers' storage tanks. Moreover, most consumers are unaware that sulphur content in gasoline ranges enormously, and that sulphur in gasoline causes serious environmental problems.

Given these shortcomings, it is unlikely that the program will generate a significant consumer response. Interested consumers will need to visit MOE's website to obtain information for purchasing purposes, but that information may or may not reflect actual current conditions for a variety of reasons such as gasoline blending and the timeliness of reporting.

Only under very specific circumstances could this program lead to modest environmental benefits. For example, if some refiners have consistently high levels, while others have consistently low levels and over time this information were to become widely sought after or widely known, then conscientious consumers could act on the information and shift their consumption to lower sulphur gasoline. But, the program has only about two years to become effective, at which point the lower federally regulated limit for sulphur in gasoline takes effect, and the Ontario program will cease to be in effect.

Public Participation & *EBR* Process:

Five commenters made submissions to MOE on this proposal – three health organizations and two industry associations. The health organizations were generally supportive of the concept in MOE's proposal, but quite critical of how MOE was proposing to implement the program. One industry association was generally supportive while another, representing the refiners of Ontario recommended a number of specific changes.

The following comments and recommendations about the presentation of information were made by health organizations. The sulphur content information should be visible to anyone pumping gasoline – toward this end, it was suggested that the information be placed on pumping stations, tankers, storage facilities etc. and that sulphur content information should be as prominent as price information at the point of purchase. MOE's proposal to post the information on its website is "clearly inadequate" according to one commenter. Such a system requires an "aggressive consumer" – one who will seek out information and take action based on it. Further, it was suggested that immunity from prosecution be provided for those accurately using the information (e.g., ENGOs who wish to draw attention to the information). Without such changes, it was charged, the program "will not provide the information in a way that will allow consumers to make an informed choice when they buy gasoline." One commenter pointed out that the former minister promised to post levels on gasoline pumps and expressed disappointment that the commitment was now apparently being withdrawn.

All of the recommendations to improve the proposal made by health organizations were rejected by MOE. Instead, MOE offered the following responses to their comments. Due to the mixing of gasoline in pipelines, terminals and trucks before it reaches a service station, the sulphur levels at the gasoline pumps and other fuel storage containers do not necessarily reflect the level of sulphur in gasoline leaving the refiner's gates. Posting refinery information directly on the pumps or other fuel storage containers may be misleading to the consumer if the consumer associates the average level of sulphur in gasoline leaving the refinery with the gasoline being pumped into his/her vehicle. MOE indicated that, instead of requiring information to be posted at the point of purchase it would post the information on its website – how this presentation would avoid misleading the consumer about the current nature of gasoline in a tank was not explained.

A commenter suggested extending these reporting requirements to diesel fuels as well. MOE indicated that its program is being set up in response to the federal regulation on sulphur levels which only deals with gasoline. MOE made no commitment to extend reporting requirements to diesel fuel, but did indicate that the federal government was working on a regulation to deal with the sulphur content of on-road diesel fuel.

An industry association which represents gasoline refiners in Ontario raised a number of concerns about this regulatory proposal and made changes to the ministry's August 2001 proposed regulation by striking out and replacing words (the association indicated that these changes would harmonize the language in the regulation with that of the federal regulations and provide greater clarity and precision). Some of the more significant concerns raised included that the province was regulating in an area where the federal government has been recognized as the predominant regulator (gasoline sulphur content is primarily regulated in Canada by the *Canadian Environmental Protection Act*). The association recommended at least one "significant change" to the regulation – that MOE exempt inter-provincial shipments of gasoline from the regulation. This exemption would avoid burdening "hundreds of persons transporting gasoline into Ontario", but would exclude only about 12 per cent of the total volume of gasoline sold in the province from the reporting requirements, according to the association.

For reporting purposes, the association offered that its members could provide the same type of reporting that goes into Environment Canada (e.g., sulphur data from refiners that supply Ontario). The information which MOE was requesting (data for premium and regular gasoline on a quarterly basis, as well as mid-grade gasoline data) would be onerous to provide.

Finally, the association indicated that it would prefer to use "typical" (as opposed to actual) sulphur levels for reporting purposes, and that it preferred to establish this reporting mechanism by (voluntary) Memorandum of Understanding, as opposed to a regulation, which it said would be "less burdensome" than a regulation.

MOE incorporated most of the suggestions made by the industry association.

SEV:
MOE's SEV consideration outlines the pollution problems caused by sulphur under "environmental protection" and indicates that its reduction will improve air quality and protect human health. Under "Ecosystem Approach" the ministry explains that the information will be used in an air quality campaign to inform consumers about sulphur levels in gasoline (to date, the ECO has not witnessed an MOE-sponsored campaign of this nature). Under "Resource Conservation" the ministry explains that the initiative will reduce emissions of certain pollutants but does not indicate whether or if the initiative will conserve resources.

Other Information:
The ECO prepared the figure and table below based on data supplied by oil refineries and posted on MOE's website (*www.ene.gov.on.ca/envision/air/sig/averagelevels.htm*). The trendline indicates that sulphur levels in gasoline, refined at major Ontario refineries, have been dropping in 2002.

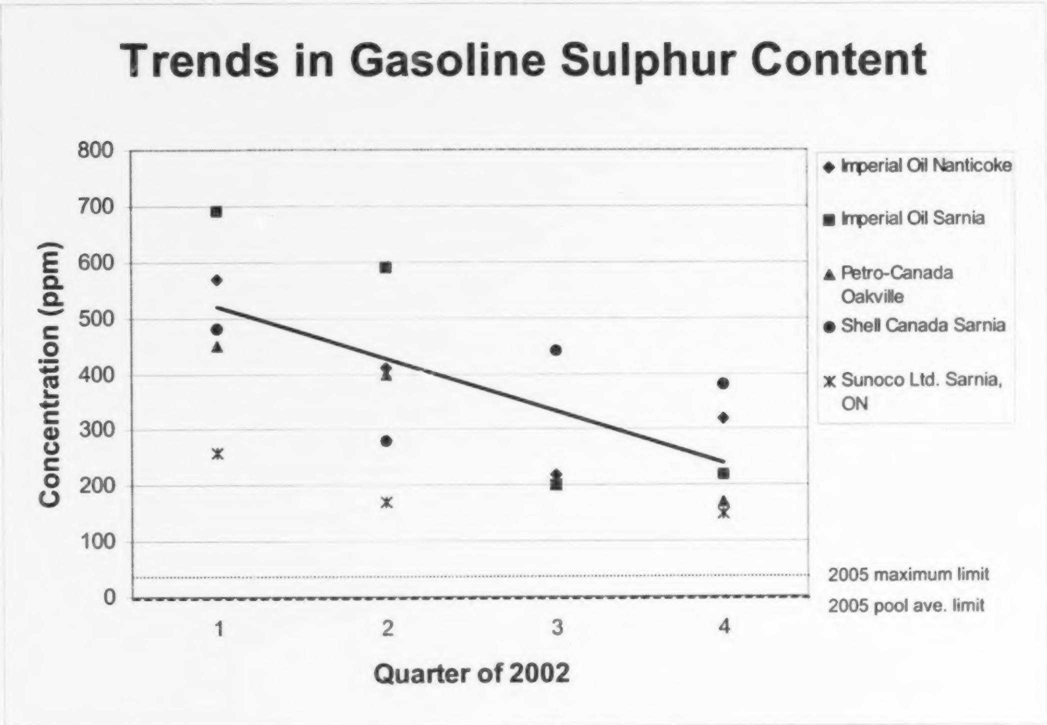

Figure 1: Major Ontario Refineries' reported 2002 gasoline sulphur content in ppm (pooled average basis).

Reporting Facility / Location	Jan- Mar 2002			Apr-Jun 2002			Jul-Sep 2002			Oct-Dec 2002		
	Pool Avg.	Reg.	Prem.	Pool Avg.	Reg.	Prem.	Pool Avg.	Reg.	Prem.	Pool Avg.	Reg.	Prem.
Imperial Oil Nanticoke Refinery	570	720	140	410	500	140	220	250	100	320	370	140
Imperial Oil Sarnia Refinery	690	690	200	590	600	160	200	200	N/A	220	220	N/A
Petro-Canada Oakville Refinery	450	410	660	400	390	450	200	200	200	170	160	230
Shell Canada Sarnia, ON	480	490	320	280	280	310	440	450	400	380	390	280
Sunoco Ltd. Sarnia, ON	260	290	30	170	190	30	200	230	30	150	170	30

Premium grade gasoline in some instances has been consistently lower than regular grade, for example, Sunoco's Sarnia refinery has been producing premium grade gasoline at 30 ppm sulphur content throughout 2002. In the Spring of 2003, Shell Canada announced that it would become the first refiner capable of producing low sulphur gasoline from all of its operations in Canada.

ECO Comment:
The ECO believes that the transparency created by requiring refiners to disclose information about sulphur levels in their gasoline helped to provide some impetus to refiners to reduce their gasoline sulphur levels – something which is becoming apparent by the reported data. This transparency has allowed the public to compare and contrast different refineries' sulphur levels, and ENGOs to publicize the levels. Competing refineries may have been spurred toward progress on this issue, knowing that their levels would be compared and contrasted publicly. But, the ECO believes that the major impetus for declining sulphur levels in gasoline are the regulated limits established under the *Canadian Environmental Protection Act.*

The ECO has concerns about the process by which this regulation was created and how the program was finally structured. The program needed to be implemented earlier in time, and to have had more resources dedicated to it, to be truly effective. For example, gasoline needs to be sampled and reported more frequently than it is under the program. A means to deal with the blending of sulphur levels from the mixing of gasoline is needed. Information about sulphur levels in gasoline needs to be prominent near gasoline retailers during high purchase times, and the public needs repeated notification of the availability of this information. MOE did not adopt any of the recommendations from commenters about these matters, e.g., prominently displaying the information where consumers of gasoline might notice it. The ECO believes that the ministry could have committed to taking actions which would have come close to meeting the objectives of these stakeholders. For example, MOE could have commited to advertising in Ontario-based newspapers and radio, the most recent estimates of sulphur levels in gasoline – particularly during smog episodes. A factor working against this commitment of resources is that the program is only an interim measure, lasting until the federal sulphur regulation sets the level of sulphur in gas at 30 ppm (pooled average basis) in 2005.

From a process perspective, the ECO notes that MOE elected not to prepare a Regulatory Impact Statement (RIS) for this initiative. An RIS is intended to inform the public of the environmental, economic and social consequences of implementing the initiative and would have been useful in this case. An RIS could have illuminated the costs and benefits of MOE's approach and could have led to the consideration of redesigning the program to improve its effectiveness. As it is structured, MOE is relying on very motivated consumers to visit its website over a two year period to obtain information in a very dense format in order to determine which gasoline retailer appears to be retailing the lowest sulphur content gasoline available.

Despite process and program weaknesses, it appears that the key outcome sought by this regulation – that sulphur levels be reduced in the gasoline refined for the Ontario market – is occurring.

Review of Posted Decision:
Waste Diversion Act, 2002 (Bill 90)

Decision Information:

Registry Number: AA01E0002	Comment Period: 60 days
Proposal Posted: June 27, 2001	Number of Comments: 7
Decision Posted: August 27, 2002	Came into Force: June 27, 2002

Description:
Concerns about waste management such as shrinking landfill capacity, escalating waste management costs, unstable markets for recyclable materials, and who's going to pay have been discussed by government, municipalities, industry and environmental groups for many years. In June 2002, the Ontario government enacted the *Waste Diversion Act* (*WDA*) to "promote the reduction, reuse and recycling of waste and to provide for the development, implementation and operation of waste diversion programs." In its announcement, the government stated that the *WDA* "brings Ontario a step closer to meeting its waste reduction goal….of 50 per cent". Under the new Act, a regulation is made designating a waste, and then a waste diversion program that provides sustainable funding and sets diversion targets can be developed.

The *WDA*, which is administered by Ministry of the Environment (MOE), provides a framework to develop waste diversion programs for a range of wastes to be designated including Blue Box waste, used oil, scrap tires, organics, electrical components, batteries, fluorescent lighting tubes, pharmaceuticals, and hazardous waste from households such as old paint cans. In September 2002, Blue Box waste was designated the first waste for which a waste diversion program is to be prepared. In March 2003, used oil and used tires were also designated. MOE expects to pass regulations designating all of the specified wastes over the next two years.

The *WDA* establishes Waste Diversion Ontario (WDO) as a permanent non-government corporation. The objectives of the WDO Board of Directors, as set out in the *WDA*, are to develop, implement and fund waste diversion programs. Organizations represented on the Board are determined by the *WDA* and are listed in the following chart. The *WDA* prohibits the public from suing the government for actions taken by the WDO. For each waste, industry is given the option of creating an industry funding organization (IFO) to develop its waste diversion program or to do it itself. An IFO is comprised of "stewards" who represent companies that have a commercial connection to the designated waste or to a product from which the designated waste is derived.

The WDO in co-operation with the relevant IFO is required to develop a waste diversion program with waste diversion targets. The program may include:

- Activities to reduce, reuse and recycle the designated waste;
- Research and development related to the management of the designated waste;
- Activities to develop and promote products that result from the program; and

- Educational and public awareness activities.

WDO Board of Directors
(Number of Representatives)

- Association of Municipalities of Ontario (4)
- Brewers of Ontario (1)
  - Brewing companies
- Canadian Manufacturers of Chemical Specialties Association and the Canadian Paint and Coatings Association (1)
  - Manufacturers of industrial chemicals (e.g., soap, detergents, insecticides) and manufacturers and suppliers of paint and coatings
- Canadian Newspaper Association (1)
  - Daily newspapers
- Corporations Supporting Recycling (3)
  - 120 private companies including grocery and consumer products manufacturers, packaging suppliers, plastic producers and the soft drink industry
- Liquor Control Board of Ontario (1)
- Retail Council of Canada (1)
  - Retailers
- Industry Funding Organization (determined by MOE)
  - Representative(s) for each designated waste
- Public Service (1 appointed by MOE)
  - Government employee
- Non-public Service (2 appointed by MOE)
  - Anyone

Observers:

- Canadian Manufacturers of Chemical Specialties Association and the Canadian Paint and Coatings Association (1)
- Ontario Community Newspapers Association (1)
  - Ontario community newspapers (not dailies)
- Ontario Waste Management Association (1)
  - Companies providing waste management services
- Paper & Paperboard Packaging Environmental Council (1)
  - Paper mills and packaging converters (e.g., corrugated and board boxes, kraft paper)

However, the program must not promote burning or landfilling of the waste, or application to land. The program must be approved by the minister and must include an operating agreement between the WDO and the IFO that governs how the IFO will implement and operate the program. In addition, the WDO is required to submit a business plan and an annual report to the minister describing its activities and the effectiveness and efficiency of each waste diversion program.

Each IFO is required to pay for its waste diversion program; and to pay a share of the costs incurred by the WDO and MOE related to the *WDA*. In addition, each IFO must establish an Effectiveness and Efficiency Program to fund initiatives that reduce program costs and increase revenue. The IFO is funded by fees charged to its stewards.

If an industry or company prefers to develop its own waste diversion program instead of working through an IFO, it can prepare an industry stewardship plan. The plan must be approved by the WDO or by the minister, and must include an annual report to the WDO. The WDO is responsible for monitoring the effectiveness of the industry stewardship plan. Although the WDO may charge a fee to cover the costs associated with administering these plans, stewardship fees do not apply.

The *WDA* requires that the waste diversion program for Blue Box waste include payments to municipalities that equal 50 per cent of the total net costs incurred by municipalities for Blue Box materials. In 2002, MOE advised that the LCBO will continue to pay for the cost of recycling alcohol beverage glass by contributing $5 million annually for the years 2003-2006 to municipalities, and will contribute $1 million to assist with the initial setup of the WDO. In addition, the Canadian Newspaper Association and the Ontario Community Newspaper Association have agreed to spend $1.3 million of their stewardship fees in the first year as newspaper advertising to promote the Blue Box program.

To discourage industry from switching its packaging to non-recyclable wastes, O. Reg. 273/2002 under the *WDA* was passed which defines Blue Box waste as any waste that consists of any of the following materials or any combination of them: glass, metal, paper, plastic or textiles – even if they are not defined as Blue Box waste by O. Reg. 101/94 under the *EPA*. Switching to a different type of plastic – for example, one not covered by O. Reg. 101/94 and thus not picked up in a municipality's Blue Box program – will not let a company avoid paying stewardship fees based on the amount of waste it produces.

Under the *WDA*, packaging associated with products purchased at Brewers Retail Inc. will not be included as Blue Box waste. Instead Brewers Retail Inc. will continue to operate its own packaging return system and will be required to provide an annual report that includes performance measures to the WDO.

Under the *WDA*, if a corporation is found guilty of an offence, anyone who directed, authorized, participated in, assented to or acquiesced is also guilty, and may be fined up to $100,000 per day of the offence. If an individual is guilty, the maximum fine is $20,000. MOE has indicated that the cost of enforcement will be about $200,000 for the first full year.

The *WDA* includes several provisions regarding public notification and involvement. In particular, the *WDA* has designated operating agreements between the WDO and IFO, and waste diversion programs as proposed regulations under the *Environmental Bill of Rights*, requiring the minister to post them on the Environmental Registry before a final decision is made. In addition, the WDO and IFO must consult with the public during the development of waste diversion programs. The *WDA* requires that the following documents be available to the public: annual reports, WDO business plans, operating agreements, and industry stewardship plans.

MOE is required to review the *WDA* every five years and to inform the public when the review is undertaken.

Implications of the Decision:

In 1991, the Waste Reduction Action Plan (WRAP) stated that waste diversion programs required four components: regulatory measures, financial and technical support, public education, and the development of markets for recyclable materials. Underlying these four components was the requirement to support municipalities in their efforts to divert recyclable materials from landfill sites. Since then there has been some progress on regulatory measures; but progress on the other three components has been limited. However with the enactment of the *WDA*, the regulatory context for waste diversion has been strengthened, and provisions related to public education, technical support and the development of markets are included. As a result, the *WDA* has the potential to reinvigorate waste diversion efforts in Ontario at a time when some municipalities are considering cutbacks to their programs.

Regulatory Measures
In 1994, the province enacted O. Reg. 101 under the *EPA*, which defined Blue Box waste and formed the basis for the current Blue Box Program. The *WDA* is the first, substantive, regulatory change affecting waste diversion since 1994 and is expected to provide the regulatory context for waste diversion initiatives in Ontario for the foreseeable future.

Public Education
The *WDA* includes several provisions that should result in better public awareness of waste diversion efforts. Although municipalities were required to collect data on diversion under O. Reg. 101/94, there was no major incentive to do so. In order to determine total net costs and performance of its waste diversion efforts, municipalities will be required to collect material-specific volume data, capture rates and costs. The WDO, through business plans, annual reports, and stewardship plans will be required to report on how fees are calculated, collected and allocated annually, and on performance against targets. The public will be able to assess local waste diversion efforts in the context of the provincial data.

Financial Support
The *WDA* changes the current funding model in which municipalities pay for losses incurred by waste diversion programs through property taxes, to a shared industry stewardship-municipal model in which producers, consumers and municipalities pay. The *WDA* holds industry, i.e., producers, accountable for 50 per cent of net costs associated with the municipal Blue Box program, and holds municipalities accountable for the remaining 50 per cent. Municipalities will continue to pay the full costs of residential waste that is landfilled. In addition, consumers will pay each time they purchase products that contain recyclable materials, since industry will reflect the stewardship fees in the pricing of its products, and may also pay in the form of property taxes.

Under the *WDA*, municipal net costs are calculated based on the amount of Blue Box waste that is collected. The proposed formula for allocating Blue Box funding to municipalities gives preference to municipalities with low populations, efficient operations and/or which market a greater number of Blue Box wastes. As a result, some municipalities will receive more than 50 per cent of their net costs and other municipalities will receive less than 50 per cent. The IFO estimated that, if the proposed Blue Box Program plan started in May 2003, Ontario municipalities would receive about $20 million from industry for the eight-month period, May – December 2003. These are funds that municipalities will not need to collect as property taxes.

Development of Markets for Recyclable Materials
Municipalities have been unable to fund the Blue Box Program through sales since the markets for recyclable materials have been quite volatile over the years or have been non-existent. Prices for Type 1 and 2 plastics tripled between 1991 and 1995; but by 2002, prices had decreased to pre-1995 levels. Prices for flint glass have almost halved in the last few years but prices for aluminum cans have doubled in the last ten years. With the exception of aluminum, the costs of collecting Blue Box materials exceeded the revenues received. The *WDA* encourages industry to develop new markets and expand existing opportunities such as the use of glass as an aggregate (please refer to pages 29-35 of this year's annual report for information on aggregate use in road construction) to reduce municipal net costs. However, since prices for recyclable materials are influenced by factors beyond the control of Ontario industries and municipalities, market development may not initially result in lowering municipal net costs. In addition, since it is not always cost-effective to transport materials long distances, there is the opportunity for development of local recycling businesses.

Public Participation & *EBR* Process:
During the 60-day public comment period seven submissions were received. MOE provided a fairly comprehensive response in its decision notice describing how the comments affected Bill 90. MOE noted that the final version of the *WDA* included a clarification that the stewardship fees must equal 50 per cent of the total net costs incurred by municipalities, changes to the composition of the Board of Directors, and provisions related to the Brewers Retail Inc. packaging return system. Some of the comments are summarized below.

Stewardship Fees
Commenters noted that all waste diversion programs should be subject to the same funding formula. Furthermore, only companies that contribute waste to the municipal waste management stream and MOE, should be required to pay. Companies should not have the option of contributing resources or services. In its decision notice, MOE indicated that the 50 per cent funding formula may not be appropriate for all waste streams and that this figure resulted from prior negotiations with industry.

Several commenters viewed the fees as a form of taxes that should be collected by the government, not by industry or the WDO. In the decision notice, MOE explained that the fees being charged are for the cost of the services rendered. Commenters also noted that the proposed system adds significant overhead costs for waste diversion related to the WDO and the IFO, production of audit reports and annual reports, and enforcement.

WDO Board Representation
Some municipalities commented that they should have more representation on the WDO Board of Directors. It was noted that if the municipalities were accountable for one half of the cost of operating recycling programs, they should comprise one half of the board. In its decision notice, MOE indicated that the composition of the board of directors had been changed with respect to MOE-appointed representatives. MOE did not respond to the concern regarding municipal representation and did not increase municipal representation.

Prescription under the EBR
One group was concerned that only waste diversion programs are prescribed under the *EBR* and only for the purposes of providing notice. As a result, the public will not have the right to participate in other aspects of the decision-making process, and the public will not have the right to request a review of the Act, nor will they have the right to request an investigation.

SEV:
MOE indicated that three SEV principles were considered in the design of the *WDA* - environmental protection, ecosystem approach and resource conservation. MOE indicated that diversion of waste from disposal sites protects the environment, preserves land that would otherwise be used for landfill, and conserves resources through reduction, reuse and recycling. The ECO agrees with MOE's statement.

Other Information:
The following chart[1] summarizes the amount in tonnes of recyclables collected by the Blue Box program in Ontario between 1988 and 2000, and provides projected capture data for 2004.

YEAR	PAPER	GLASS	METALS	PLASTICS	OTHER[2]	TOTAL
1988[1]	140,000				Unknown	140,000
1992	289,000	104,000	77,000	7,000	Unknown	477,000
1996	367,000	104,000	45,000	16,000	100,000	632,000
2000	513,700	94,900	42,600	22,800	98,000	772,000
2004[3]	1,033,500	184,300	100,200	174,700	131,700	1,624,400

Notes:
1. A detail breakdown by material type is not available for 1988.
2. Includes construction and demolition, white goods and scrap metal.
3. WDO projected data based on population growth of 1.5 per cent.

In 2000, the average Toronto household produced one tonne of garbage, of which 73 per cent was landfilled. The remaining 27 per cent was diverted which is consistent with the provincial diversion rate. With the closure of the Keele Valley landfill site, Toronto and some other municipalities now ship all of their non-recyclable waste to Michigan. The Toronto Waste Diversion Taskforce 2010 has proposed that all garbage be recycled, reused or composted and has set the following diversion targets: 30 per cent of waste by 2003, 60 per cent by 2006 and 100 per cent by 2010.

Although tipping fees charged at landfill sites are a source of funding for municipalities, fees have been volatile. For instance, the Toronto tipping fee was $18 per tonne until 1988, but was increased to $67 per tonne in 1988, and then to $150 per tonne in 1991, but by 1998, the fee was reduced to $55 per tonne. Pressure from garbage exporters was a major reason why the fees were reduced in the early 1990s. By 1991, the City of Toronto had accumulated tipping fee revenues to create a reserve fund of an estimated $300 million, which was to be used to develop a new landfill site and fund new 3Rs projects. These funds have since been spent on budget shortfalls and other initiatives.

In our 1998 annual report, the ECO recommended that MOE promote product stewardship by introducing measures requiring industry to take increased responsibility for the management of the wastes associated with their products and by introducing mandatory waste reduction, reuse and recycling targets.

A Brief History of Waste Diversion Initiatives in Ontario
Among the earliest waste diversion initiatives in Ontario were deposit-return systems of the 1960s for refillable glass bottles used for soft drinks, milk and beer. Today, the Brewers Retail Inc. operates the only major deposit-return system in the province. Another early initiative was the curbside Blue Box program. Introduced in Kitchener in 1983, it was the first program of its kind in the world for the collection of recyclable materials. As concerns about landfill capacity and the costs of recycling grew, the province committed to sharing development and early operating costs of municipal Blue Box programs for the period 1986 - 1991 through the Municipal Recycling Support Program (MRSP). Ontario Multi-Material Recycling Incorporated (OMMRI), an organization representing the soft drink industry, also agreed to provide funding in return for a reduction in its refillable bottle quota.

In March 1989, the Minister of the Environment announced two targets to stimulate waste diversion efforts in Ontario – 25 per cent diversion of solid waste by 1992 and 50 per cent diversion by 2000 measured on a per capita basis against a base year of 1987. The latter target was consistent with the national waste diversion target set by the Canadian Council of the Ministers of the Environment (CCME) to reduce the amount of packaging being disposed of by 50 per cent under the National Packaging Protocol. With municipalities being pressured to meet the provincial diversion targets and the end of their funding under MRSP looming, the province agreed to extend MRSP funding until March 1996 under the Enhanced 3Rs program. In addition, the Corporations Supporting Recycling (CSR), which was created when OMMRI expanded to include six additional industry sectors, agreed to provide $45 million for the period 1990 – 1994.

In 1990, the province established the Waste Reduction Advisory Committee (WRAC) and in February 1991 announced the WRAP (described in Implications of the Decision). However by 1991 and despite financial support from the province and CSR, municipalities were funding 60 per cent of the Blue Box program through property taxes and 14 per cent through the sale of recyclable materials. The province and CSR funded the remaining 22 per cent and 3.9 per cent respectively. In 1992, WRAC recommended that the producers of waste, e.g., packaging industry, and consumers of waste be responsible for financing waste diversion programs. WRAC recommended that an IFO be created.

In 1994, the province enacted O. Reg. 101/94 under the *Environmental Protection Act*. This regulation required that all municipalities with a population of more than 5,000 provide residential recycling. Under O. Reg. 101/94, basic blue box materials are defined as food and beverage containers made from aluminum, steel, polyethylene terephthalate, or glass, and newsprint. Supplemental blue box waste includes aluminum foil, fine paper, textiles and magazines. Municipal Blue Box programs are required to collect the basic materials plus at least two supplemental wastes. Leaf and yard waste composting programs also became mandatory programs for most large municipalities.

While the passage of O. Reg. 101/94 was an important step, the province did not deliver on its other three WRAP commitments made in 1991. In particular, MOE failed to develop coherent systems for marketing recycled materials or a sound financing system for waste diversion mandated by O. Reg. 101/94. Instead, MOE encouraged Ontario's packaged goods industries to propose the Canadian Industry Packaging Stewardship Initiative (CIPSI) in 1994. CIPSI encouraged packagers to reduce and reuse packaging, to develop markets for recycled materials, and proposed that industry fund up to two-thirds of the costs of recycling packaging materials. CIPSI died due to concerns raised by some industry associations, municipalities and environmental groups. By the mid 1990s, the overall diversion of municipal solid waste had stalled at about 30 per cent.

In 1996, CCME announced that the national diversion rate of 50 per cent less packaging by weight (i.e., not volume) by 2000 had been achieved four years early. "Lightweighting," the substitution of lighter-weight materials such as plastic, for heavier materials such as glass, was cited as one of the primary factors in achieving this goal. Funding of municipal waste diversion programs under the Enhanced 3Rs program expired in 1996 and was not replaced. In 1998, LCBO agreed to contribute $4 million annually to municipalities to cover the costs of collecting its packaging, particularly wine and liquor bottles, in the Blue Box program. Responding to pressure from municipalities regarding funding, the province established the WDOrg in late 1998 to develop sustainable funding for municipal waste diversion programs.

The WDOrg, consisting of representatives from industry, municipalities, LCBO and the Recycling Council of Ontario, was asked to develop five-year plans for meeting Ontario's waste diversion goal of 50 per cent in a sustainable and cost-effective manner; and to identify and allocate financial and technical support for opportunities to improve the efficiency and cost-effectiveness of existing waste diversion programs. In its report issued in September 2000, the WDOrg made recommendations regarding each of the waste streams, including Blue Box waste, organics, household hazardous materials, and proposed a stewardship approach through an IFO to the funding of waste diversion initiatives. WDOrg established five principles to guide the development of funding mechanisms, in particular:

- Funding mechanisms must "provide incentives for municipalities and industry to improve the environmental effectiveness and economic efficiency of waste diversion programs;"
- Funding mechanisms must encourage increased diversion;
- Financial responsibility must be shared among consumers, government and industry;
- Municipalities and industry are responsible for the design and implementation of programs; and
- Enforcement is the responsibility of the province.

WDOrg advised MOE that "a 50 per cent diversion rate for materials recycling is considered aggressive but achievable" by 2005. However by 2000, some municipalities were reducing their waste diversion services in order to control costs.

ECO Comment:
This Act is ambitious in its scope in that it attempts to link financing of waste diversion programs and setting of diversion targets. It is an important first step to implementing the strategies advocated in 1991 by WRAP.

Regulatory Measures
The ECO believes that the *WDA* provides direction to industry, municipalities and consumers by clarifying roles and responsibilities, and by providing a management infrastructure to address the issues and to develop plans and targets. However, by moving accountability for waste diversion programs to the WDO and prohibiting the public from suing the government for any actions taken by the WDO, the government has distanced itself from the often-contentious issue of waste diversion.

The ECO is encouraged that the government intends to designate all of the specific wastes within two years, and will be reviewing the relevant regulations in our next annual report.

Financial Support
As noted in our 1998 annual report, the ECO supported the concept of product stewardship, and is pleased that the province has mandated it as a basis for funding waste diversion programs. Although the ECO expects that the WDO will be able to readily identify stewards for most of the designated wastes, the WDO may have difficulty finding appropriate stewards for centralized composting of organic waste, particularly leaf and yard waste. Comprising about 30 per cent of residential waste, diversion of organic waste would result in a significant improvement in the diversion rate. The ECO notes that it may be necessary to continue to use property taxes to fund centralized organic waste diversion.

Public Participation in Waste Diversion Decisions
Prior to the enactment of the *WDA* waste diversion decisions were made under the *EPA* and were subject to the public notice and comment provisions of the *EBR*. However under the *WDA*, minimum requirements for public notice and comment are not specified for the preparation stage of the waste diversion programs and the operating agreements between the WDO and IFOs. As a result, the ECO is concerned that the public will no longer have the same or equivalent opportunities to participate. The *WDA* does not require these documents to be posted at this stage on the Environmental Registry for notice and comment, although it does require the WDO and IFO to involve the public. As a result, the ECO is concerned that the public is less likely to be aware of opportunities to participate.

To-date, the IFO for the Blue Box Program plan has gone to considerable effort despite tight deadlines imposed by MOE to ensure that industry stakeholders and municipalities are involved in the preparation of the Blue Box Program plan through webcasts, workshops, various communications to industry, and its website. In addition, the Association of Municipalities of Ontario held six consultation sessions and a teleconference for municipalities, and the Recycling Council of Ontario held six workshops involving the general public.

On June 20, 2003, MOE prescribed the *WDA, 2002*, under the *EBR* so that all regulations made under the Act would be subject to the notice and comment provisions in s.16 of the *EBR*. The ECO supports this decision, but believes that the *WDA* should also be prescribed for reviews and investigations. In particular, although the minister is required to review the Act every five years, to notify the public of the review and to publish a report regarding the review, there is no requirement to consider comments from the public during the review as MOE is required to do by the *EBR*. As a result, the ECO believes that the five-year review report should be posted on the Registry as a proposal to give the public the opportunity to submit comments. Prescribing the Act for review and investigations, and prescribing the five-year review report would improve transparency and would provide greater opportunity for the public to be involved. In addition, the ECO is concerned that waste diversion programs and operating agreements will not be posted on the Registry until after they are submitted to the minister. As a result, the general public is less likely to be aware of opportunities to participate in decisions regarding these documents while they are being developed. It is unclear what effect comments from the public could have at this late stage. The ECO expects to review the minister's decisions on waste diversion programs and operating agreements in our next annual report.

Development of Markets for Recyclable Materials and Technical Support

The ECO is encouraged that funds will be available through the Effectiveness and Efficiency Program to improve municipal recycling systems, and to research and develop markets for recyclables. In the past, efforts to develop new markets and to exploit existing markets have had limited success. While improvements to Ontario's recycling programs should result in improved waste diversion rates, the ECO believes that reduction and reuse approaches will also be key to meeting ambitious diversion targets.

Conclusion

The ECO is encouraged that progress is finally being made on waste diversion, and by MOE's plans to designate all nine of the identified wastes within two years. The ECO believes that complex issues remain to be resolved and considerable work will be required if significant improvements in waste diversion rates are to be achieved.

Review of Posted Decision:
Fowler Construction Company Ltd:
Approval for Discharge into the Natural Environment other than Water

Decision Information:

Registry Number: IA02E0219	Comment Period: 30 days
Proposal Posted: February 20, 2002	Number of Comments: 5
Decision Posted: August 29, 2002	Decision Implemented: August 2002

Description:

In February 2002, the Ministry of the Environment (MOE) proposed to issue a Certificate of Approval to Fowler Construction Company Ltd under Section 9 of the *EPA* for discharge into the natural environment other than water (i.e., air). This facility is located in the Township of Bracebridge, in the District Municipality of Muskoka and is made up of several different operations or "plants". The purpose of the proposal is site-wide approval of all the plants at an existing facility which collectively use a batch type process to produce a final product made primarily of raw aggregate and asphalt cement. It is located in an industrially zoned area and is equipped with combustion equipment, liquid asphalt cement storage tanks, and emission control equipment.

Implications of the Decision:

Due to the nature of asphalt processing, this approval for air discharge has potential environmental and health implications. Research on the release of particulate matter, carbon and SO_x into the atmosphere from asphalt processing plants has shown that it may cause soil, air and water contamination with subsequent effects on the surrounding environment. Health impacts from such exposure include irritation of eyes, nose, throat and lungs. Fumes from the asphalt plant can exacerbate symptoms in those who have existing allergies or respiratory conditions, such as asthma. Community members made comments indicating that odour emitted during the facility's hours of operation is already an invasive problem. At high temperatures, heated asphalt emits a strong odour and if concentrated, can cause nausea and/or headaches.

Public Participation & *EBR* Process:

The proposal was posted on the Registry for a 30-day comment period. The ministry received five comments, all of which opposed the application for approval for discharge into the natural environment other than water submitted by Fowler Construction Company Ltd. All five commenters expressed concerns relating to noise and odour. Additionally, local residents raised the issue of zoning in their objection to the application, stating that the land immediately surrounding the industrial-zoned Lot 10 (the proponent's property) is residential.

In its decision notice, MOE stated that it had requested input from the district Environmental Officer, in addition to noise and air engineers, but did not describe the nature of these comments. MOE also stated that in response to the public's comments the ministry imposed additional terms and conditions to minimize noise and odour emissions.

Conditions included frequent inspection and cleaning of the equipment (e.g., venturi scrubbers); implementing appropriate measures to minimize fugitive odour, dust and noise emissions from the facility; a provision for effective dust suppression for storage piles; restricting operation of the facility to the period between 6:00am and 7:00pm; and a provision that plant 2 and plant 5 not be operated simultaneously.

SEV:

Although all ministries are required to give consideration to their SEV when making decisions, MOE chooses not to do so in deciding instruments. MOE has offered two explanations for its policy on SEV consideration. First, in an August 1995 discussion paper on the use of its SEV, MOE stated: "issuing, review, repeal or amendment of instruments is guided by policies, Acts or regulations." It maintained that since the SEV is considered in the development of these policies, Acts and regulations, considering it again for the granting of instruments is unwarranted. Second, in its 1996 annual report to the ECO, MOE states that SEV consideration is not required for instrument proposals because MOE already considered the SEV when it developed its classification regulation for instruments. Thus, Ministry staff would not have considered the MOE's SEV in making this decision. As pointed out in the ECO's 1994-1995 annual report, the ECO strongly disagrees with MOE's interpretation as to how the SEV requirements apply to instruments. The ECO takes the position that all environmentally significant decisions made by ministries are subject to SEV consideration under Section 11 of the *EBR*.

Other Information:

Fowler Construction Company Ltd has submitted several concurrent applications to the MOE for approvals: one application for a Permit to Take Water under the *OWRA* and another application for approval of sewage works. These instruments also were posted on the Registry for comment. (For a review of the handling of the approval of the PTTW, see the review in this supplement on pages 277-281.)

ECO Comment:

The evidence reviewed by the ECO suggests that MOE did consider the comments received during the comment period. The Certificate of Approval issued to the proponents emphasized compliance with all conditions especially those regarding odour emissions. The ECO recommends continued monitoring of the Fowler Construction Company facility and a further evaluation of the options available to reduce toxic and odorous emissions.

Review of Posted Decision:
Changes to Ontario's Air Quality Index

Decision Information:
Registry Number: PA02E0025
Proposal Posted: June 21, 2002
Decision Posted: August 29, 2002
Comment Period: 30 days
Number of Comments: 4
Decision Implemented: August 2002

Description:
MOE added fine particulate matter ($PM_{2.5}$) to the Ontario Air Quality Index (AQI) monitoring and information system in August 2002. Particulate matter consists of microscopic solid particles and liquid droplets in the air. Fine particulate matter is primarily formed from chemical reactions in the atmosphere and through fuel combustion (e.g., motor vehicles, power generation and industrial facilities). The particles also adsorb other chemical pollutants.

Fine particulates have a diameter of 2.5 microns and less ($PM_{2.5}$) and are also known as respirable particles because they penetrate deeper into the respiratory system than the larger particles of 2.5 to 10 microns (PM_{10}). People with asthma, cardiovascular or lung disease, as well as children and elderly people are the most sensitive to the effects of fine particulate matter. MOE says that exposure to fine particulate matter is a major health concern associated with hospital admissions and several serious health effects, including premature death. $PM_{2.5}$ is also one of the main pollutants in smog.

The AQI provides the public with information about local air quality based on continuous tracking of six key pollutants at 36 sites across the province. One of the six is particulate matter and MOE replaced the older suspended particles sub-index, which was described as an outdated and indirect method to represent fine particulate matter, with the new $PM_{2.5}$ sub-index, which is based on direct measurements.

The concentration of each pollutant is measured hourly and is converted into a number using the AQI scale. The pollutant with the highest number becomes the AQI for that location. The AQI categories are (0-15 very good), (16-31 good), (32-49 moderate), (50-99 poor) and (100+ very poor). For the fine particulates sub-index MOE set the important AQI value of 50, which separates the moderate category from the poor category, to correspond to the new Canada Wide Standard (CWS) for $PM_{2.5}$ of 30 micrograms per cubic metre (24 hour) or 45 micrograms per cubic metre (3 hour equivalent).

MOE posts the AQI readings on its website and on a telephone recording and updated readings are reported to the public and news media at set times every day. The ministry also uses the AQI and weather forecasts to issue 3-day air quality forecasts, smog alerts and smog advisories. The ministry sends electronic notification of smog alerts to municipalities and others who have requested notification. The ministry prepared public information on $PM_{2.5}$ and its health effects to accompany the AQI readings and notifications.

Implications of the Decision:
Adding $PM_{2.5}$ to the AQI is expected to result in an increase in the number of poor air quality days and smog alerts in most areas of the province, in all months of the year. According to MOE's Air Quality Report for 2000, all $PM_{2.5}$ monitoring sites in southern Ontario recorded at least one exceedance day during 2000 and the number of exceedance days ranged as high as 17 in Hamilton. An exceedance day is a 24-hr concentration greater than the CWS of 30 micrograms per square metre, the threshold for an AQI of 50 (poor). During the same period of time in 2000, based on the pollutants included in the AQI index at the time, Hamilton had only five poor air quality days. If $PM_{2.5}$ had been included in 2000, the number of AQI days considered poor would have been at least 17 instead of five.

The ministry says that the purpose of the new sub-index is to provide Ontarians with more information on air quality so they can make informed decisions to protect their health and help improve the air. An increase in the number of smog alerts and additional information about the health risk may affect organizations, government agencies, companies, municipalities and individuals. For example, several municipalities have smog alert response plans that are triggered by AQI advisories. The plans include mechanisms for informing residents of the potential health threat as well as specific actions that can be taken to reduce the risk, along with actions to reduce emissions. Individuals may decide more often to avoid outdoor exercise or driving an automobile on days when they are informed the AQI is high due to fine particulates.

Public Participation & *EBR* Process:
The ministry received four comments, all in support of the decision. Two urged the ministry to make further changes, to:

- develop a formula to calculate AQI values that takes into account the cumulative effect of the total pollutants, rather than simply the single highest pollutant for each hour;
- discontinue the use of the "good" and "very good" categories of the AQI because they give a false impression that there is no health risk;
- provide new information on the health effects of each pollutant; and
- adjust the regulatory standards and threshold levels of the pollutants to reflect new knowledge about health effects.

Toronto Public Health (a department within the municipality) published a study in 2000 that determined that each year about 1,000 Toronto residents die prematurely and another 5,500 are admitted to hospital because of air pollution, while at the same time the AQI described the air quality as "good" or "very good" 95% of the time. They followed up with another study in 2001 that concluded that over 90% of the premature deaths and hospitalizations attributable to air pollution in Toronto occurred when air quality was classified as "good" or "very good" by the AQI. The study concluded that the AQI does not accurately reflect the true health risk posed by pollution in Toronto.

The 2001 study identified several reasons why the AQI misrepresented the true health risk. One was that the AQI did not at the time include fine particles. Another was that the AQI thresholds for several pollutants are too low because they are based on out-of-date regulatory standards.

Another is that the AQI number is based on the single highest pollutant and does not consider the cumulative effect of the multiple pollutants.

One of the commenters pointed out that Environment Canada is leading a multi-stakeholder process to improve the federal AQI, intending to have a standardized, health risk-based AQI system across the country by 2004. The process includes Health Canada, the provinces, territories, municipalities, environmental groups and other stakeholders. The proposed new AQI system is expected to address most of the problems identified with Ontario's AQI. The new system recognizes there is no threshold below which smog and particulates have no negative effect on health, and it would describe an increasing health risk as the AQI number gets bigger. The proposed new health risk-based AQI includes categories such as "low," "medium" and "high risk to health" at levels under 50. The commenter commended MOE for taking an important interim step by incorporating fine particles, but urged Ontario, because it has greater air monitoring capacity and is more polluted than other provinces, to adopt the proposed new federal system by 2004.

Previously, the information MOE provided indicated that there were no known health effects of any of the pollutants when the AQI was good or very good. The commenters recommended MOE update the health effects information that is distributed with the AQI to reflect current knowledge on associated human health effects, including special messages for vulnerable populations. The information MOE has now provided on health effects of $PM_{2.5}$ should go part way to addressing this concern, but only for the one pollutant. MOE's old descriptions of effects from suspended particles (the measure replaced by fine particulate matter) said there were no health effects until the very poor air quality category, when there would be increasing sensitivity in patients with asthma and bronchitis. MOE says that people with asthma, cardiovascular or lung disease, as well as children and elderly people, are the most sensitive to the effects of fine particulate matter and may want to exercise caution even when the air quality is in the very good to good range.

The ministry did not change the descriptions of the effects of any other pollutants or make any of the other changes to the AQI that were requested. In the decision notice the ministry said that any additional changes at this time are best addressed through the process currently underway to revise the National AQI in Canada.

SEV:
MOE considered its SEV in making this decision and said that it achieved the goals of MOE's SEV related to environmental protection, the ecosystem approach and resource conservation.

Other Information:
MOE also has available a different index, the Air Pollution Index (API), as a potential means to control pollution on days of bad air quality. The ministry has the authority under O. Regulation 346 to order pollution dischargers to prepare for possible curtailment of operations when the API reaches 32 and conditions are likely to continue for six hours and to order pollution sources to curtail their operations when the API in an area reaches the number 50 and conditions are likely to continue for six hours. MOE says that only two sites reached the level of 32 in the years 1996 to 2000 and no sites reached 50. The API is derived from 24-hour running averages of sulphur dioxide and suspended particles as defined by a measurement known as the coefficient of haze. This is the old method MOE used to measure suspended particles in the AQI. The ministry did not replace suspended particles with $PM_{2.5}$ in the API.

ECO Comment:
The proposed new AQI system being developed in the national process is expected to be health risk-based and should address many of the concerns raised during this consultation process about the Ontario AQI. In the U.S., a major overhaul in 1999 added $PM_{2.5}$, new categories and health messages, and made the program mandatory across the country.

Ontario has taken an important interim step by including $PM_{2.5}$. The ministry has also recognized that there is no level of $PM_{2.5}$ below which there are no health effects and has provided good information on the health risks. The ECO urges MOE to continue to participate in and support the federal process to further improve the AQI system to more accurately alert the public to the health risks of pollution.

MOE should also review the API to determine whether to replace the less accurate measure of suspended particles with $PM_{2.5}$. Adding $PM_{2.5}$ to the API would provide the ministry with the regulatory authority to control pollution sources on days when air quality is poor due to fine particulates.

Review of Posted Decision:
MOE Instrument (IA02E0082)
OslerBrook Golf & Country Club: Permit to Take Water

Decision Information:

Registry Number: IA02E0082	Comment Period: 30 days
Proposal Posted: January 22, 2002	Number of Comments: 6
Decision Posted: October 9, 2002	Decision Implemented: September 11, 2002

Description:

The OslerBrook Golf and Country Club ("the golf course") is located in the Township of Clearview in the County of Simcoe. At the beginning of 2002, the golf course applied to the Ministry of the Environment (MOE) for a Permit To Take Water (PTTW) under section 34 of the *Ontario Water Resources Act (OWRA)* for the purpose of irrigating a commercial golf course.

The PTTW application requested the following water taking rates from four sources for a period of five years:

- Source #1 (Osler Brook) – 45,460 litres per minute, 65,462,400 litres per day, 60 days per year
- Source #2 (10th Line Ditch) – 6,819 litres per minute, 9,819,360 litres per day, 60 days per year
- Source #3 (Underwood Creek) – 45,460 litres per minute, 65,462,400 litres per day, 60 days per year
- Source #4 (Main irrigation pond/hazard ponds) – 6,819 litres per minute, 4,546,000 per day, 80 days per year

The ministry reviewed the application and approved the following water taking rates for a period of five years:

- Source #1 (Osler Brook) – 9,092 litres per minute, 13,092,480 litres per day, 150 days per year
- Source #2 (10th Line Ditch) – 6,819 litres per minute, 9,819,360 litres per day, 150 days per year
- Source #3 (Underwood Creek) – 9,092 litres per minute, 13,092,480 litres per day, 150 days per year
- Source #4 (Main irrigation pond/hazard ponds) – 6,819 litres per minute, 4,546,000 per day, 80 days per year

MOE added a special condition to the PTTW which limits the stream takings to 10 per cent of the streamflow present on the day of the taking. As a consequence the requested taking rates may need to be adjusted downward to remain with the 10 per cent maximum.

Implications of the Decision:

The approval of the water taking will help ensure that the golf course development can proceed. The water taking will result in the removal of water from tributaries of Black Ash Creek for up to 150 days, not only during the winter and spring freshet as stated by MOE in its decision notice (and, the specific months or seasons when water can be taken were not specified in the Permit). The proponent was permitted to take a maximum of 10 per cent of the daily flow at the time of the taking rather than the much greater rates sought over the shorter 60-day period. The flow of the tributaries at the time of taking will be used to assess "10 per cent", rather than an annual average flow. MOE included a number of significant conditions in the permit, e.g., that the surface water taking does not reduce the streamflow to a rate that will cause interference with downstream uses of water or with the natural functions of the stream.

The hydrologic impact of this water taking should be manageable through the conditions applied to the taking and through effective surface water management operations. For example, there should not be a temperature impact on groundwater and Black Ash Creek if all water that is used for irrigation is consumed by plants or evaporated or if the golf course has a tightly contained water control system. If over-irrigation and run-off occurs then natural water bodies could be affected. Whether these things occur will depend on the ongoing management of the golf course.

Despite the conditions applied, some ongoing caution may be warranted about water takings of this nature, particularly in future years. Some winters in southern Ontario in the late 1990s and early 2000s have been relatively mild and recorded little precipitation. In such instances, a late winter /spring freshet (high water flow) is much less pronounced. MOE implied that the freshet period is when the proponent will likely draw most water (despite the fact that the proponent is permitted to take water for up to 150 days per year from tributaries of Black Ash Creek). Projections of changing climatic conditions as a result of greenhouse gas buildup in the atmosphere suggest that the flows in late winter / early spring may be reduced in future in many streams and creeks in southern Ontario. MOE included a condition that, in times of drought or water shortage, the Director may give notice to the Permit holder to suspend or reduce the taking (although the Permit holder can appeal the notice before the Environmental Review Tribunal).

Public Participation & *EBR* Process:
The proposal was posted on the Registry for a 30-day comment period. Commenters were mainly property owners near the golf course or local area residents. Their interests ranged from farming to recreation and water resources management; five of the commenters submitted letters of concern, while one submitted a brief report including photographs, charts and data.

The ministry condensed the comments received into seven principal concerns, which included: that the water taking would impact downstream water users, drainage on adjacent lands, livestock and nearby wells; that better data are needed to support the proposed water taking quantity; that consultation with local land owners was inadequate; and that the golf course proposal had not taken into account existing and planned agricultural activities or the natural functions of the ecosystem.

For the most part, MOE's summary of concerns accurately characterized the essence of public comment. In some cases, MOE's response to concerns was quite assertive, e.g., the golf course "will not impact" certain nearby users; "the proposed takings will in no way compromise streamflows…". Through these statements, MOE implied it was confident in the parameters of the taking and the conditions applied to it. Another statement used by MOE to dispel concerns was that "On-going monitoring is stipulated as a condition of permit approval." MOE also concluded that the natural functions of the stream will be protected by the 10 per cent taking limitation.

Because the golf course's surface water drainage and management plan is being considered in a separate process, it is understandable that commenters might have concerns about the impact of the golf course's surface drainage on adjacent properties. Until the public has all of the information pertaining to both surface water management and the water taking, it is difficult for either MOE or the proponent to convincingly reassure members of the public that the golf course will have no impact on nearby surface drainage. Nevertheless, MOE concluded that it would not be in the proponent's interest "to impede drainage through the golf course property." Furthermore MOE stated that the pond design should prevent any interference with water quantity in any nearby wells.

On the issue of public consultation, MOE reported back that a public information session and public meeting were planned as part of the planning approvals process for the golf course and that nearby residents would be invited and information would be provided in advance. MOE stated that any agricultural concerns could be raised at that time.

Given the manner in which MOE condensed the comments, not every issue raised was summarized in the decision. Some of the other issues raised by commenters which MOE did not elaborate on, include:

- the development of the golf course would lead to a loss of an estimated 35 hectares of forest;
- the maximum size of the water taking should be based on annual flood frequency curve data;
- concerns about phosphorous and nitrogen (fertilizers) inputs, and *E.coli* (bacteria) contamination.

MOE did not respond to these points directly in its decision.

SEV:

The ministry's SEV states that it will adopt as a guiding principle an "ecosystem approach to environmental protection and resource management." When the creation of pollutants cannot be avoided, the ministry's priority will be first to prevent their release to the environment and second, to minimize their release.

As a policy, MOE does not prepare SEV considerations on instrument proposals. In an August 1995 discussion paper on the use of its SEV, MOE stated: "issuing, review, repeal or amendment of instruments is guided by policies, Acts or regulations." It maintained that since the SEV is considered in the development of these policies, Acts and regulations, considering it again for the granting of instruments is unnecessary. Secondly, in its 1996 annual report to the ECO, MOE stated that SEV consideration is not required for instrument proposals because MOE already considered the SEV when it developed its classification regulation for instruments.

Other Information:
On April 21, 2003, MOE posted a notice on the Registry proposing improvements to the PTTW program. Proposed changes to the PTTW program include an annual reporting requirement of water use for permit holders that would provide information to assist with the sustainable use of water and the preparation of watershed-based water budgets.

ECO Comment:
MOE has done a thorough job of assessing this proposal and applying conditions to OslerBrook's PTTW. Nevertheless, caution may be warranted about water takings of this nature during drought years, low-flow periods and because of climate change-sponsored alteration of hydrologic regimes, which may reduce flows generally and during the freshet specifically, in streams and creeks in southern Ontario in future. It should be noted that MOE included monitoring conditions in the PTTW, which should guard against unacceptable over-taking. Nevertheless, this use of water is consumptive in nature (water removed from surface bodies and evaporated to the atmosphere) and will therefore have some degree of impact on the area hydrology.

MOE did a reasonably thorough job of summarizing comments on this proposal by aggregating the concerns into seven major themes and then responding to each. MOE should be more careful to clarify which takings represent the *proposed* versus the *permitted* amounts. In this decision notice MOE should have specified that the accurate information about quantities to be taken appeared in the attached permit and that the quantities listed in the decision notice were repeated from the proposal. This oversight could lead to confusion in the public for anyone reading the decision notice only.

However, the ECO notes and welcomes MOE's use of more precise language in the terms and conditions of this PTTW. In the past, ECO has noted that the terms and conditions of PTTWs were often very sparse and limited, primarily specifying the quantity of water to be taken and its general location. The addition of more precise language and conditions should provide the means for MOE and the public to manage takings in areas where water quality or quantity issues arise.

MOE's handling of this PTTW and its terms and conditions appear to be consistent with the direction of the ministry in its April 2003 Registry proposal for improvements to the PTTW program.

Review of Posted Decision:
Brownfields Regulations
related to Municipalities, Secured Creditors, Receivers, Trustees in Bankruptcy and Fiduciaries
O.Reg 298/02 under *Environmental Protection Act* and O.Reg 299/02 under *Ontario Water Resources Act*
(as amended by the *Brownfields Statute Law Amendment Act*, 2001)

Decision Information:
Registry Number: RA02E0004
Proposal Posted: July 7, 24
Decision Posted: November 14, 2002
Comment Period: 30 days
Number of Comments: 3
Came into Force: December 1, 2002

Description:
In November 2001, the proposed *Brownfields Statute Law Amendment Act (BSLAA)* received Royal Assent. The purpose of the *BSLAA* is to provide clear rules for cleanup and environmental liability, mechanisms to ensure quality cleanup, and planning and financing tools to enable the process. The ECO reviewed the *BSLAA* in our 2001/2002 Annual Report (p. 83).

Prior to the enactment of the *BSLAA* and accompanying regulations, owners or developers of a brownfield site were not protected from liability even if they had not contributed to contamination of the site. Parties interested in proactive remediation of contaminated sites were putting themselves in a position where they could be held liable for the contamination, despite the fact that they had no prior involvement with the property.

In October 2002, the Ministry of the Environment (MOE) made two regulations, one under the *Environmental Protection Act* (*EPA*) and one under the *Ontario Water Resources Act* (*OWRA*), related to provisions in the *BSLAA* that apply to municipalities, secured creditors, receivers, trustees in bankruptcy and fiduciaries. The decision notice on these regulations was posted on the Registry in November 2002. These regulations:

- prescribe protected municipal actions;
- specify circumstances under which environmental orders can be issued;
- require owners or site controllers to provide notice to ensure that the ministry is made aware of any danger to the health or safety of any person;
- require owners or site controllers to provide notice of abandonment of property; and
- provide an exemption from reporting prior to a secured creditor becoming the owner of a property through a foreclosure.

Implications of the Decision:
Brownfields are idle or under-used industrial and commercial properties with existing or potential environmental contamination. Consequently, their expansion and redevelopment is likely to be logistically complicated and prohibitively expensive. Making brownfields more attractive to redevelopment is an important way to revitalize old urban areas and to combat urban sprawl. The proposed regulations aim to facilitate the cleanup and redevelopment of former

industrial or commercial sites while providing liability protection to municipal and lender stakeholders.

The regulations expand upon the list of protected Acts and actions in s. 168.12(2) of the *EPA* for which a municipality or their representative cannot be considered in occupation or charge, management or control of a non-municipal property and as a result, cannot be subject to an MOE environmental order. The protected actions include actions taken for fire prevention, work associated with a public utility or work undertaken by a municipality because of a person's failure to comply with an Act, regulation or agreement. These prescribed circumstances will ensure greater protection from orders to and prosecution of municipalities who have not been responsible for causing, permitting or aggravating environmental contamination and who wish to remediate a contaminated site. The Acts listed in the proposed regulation, in relation to which actions are protected from environmental orders, include the *Drainage Act*, *Health Protection and Promotion Act*, *Snow Roads and Fences Act*, and the *Weed Control Act*.

The regulations also contain notice requirements that apply to municipalities, secured creditors, receivers, trustees in bankruptcy and fiduciaries. They are required to give notice to the ministry when they, or their representatives, become aware of any "danger to the health or safety of any person" as a result of the presence or discharge of a contaminant. The regulation also requires that notice be given to the Ministry's Spills Action Centre within 24 hours.

The regulations provide that an order can be issued against a municipality or its representative when there is a contravention of sections 27, 40 or 41 of the *EPA*. These *EPA* sections are associated with management of waste at a site. The regulations also provide that compliance orders can be issued against a secured creditor, receiver or trustee in bankruptcy but only after a 90-day period. This would allow time for these parties to be made aware of compliance problems and achieve compliance.

When these regulations were made, the *BSLAA* provisions protecting municipalities and secured creditors from liability were proclaimed into force on December 1, 2002.

Public Participation & *EBR* Process:
In the proposal notice, MOE indicated that they held meetings with stakeholders from November 2001 to May 2002. Participants in the multi-stakeholder process included municipalities, secured creditors, receivers, trustees in bankruptcy, fiduciaries, environmental professionals, developers, and representatives from the legal community. The proposed regulations were also posted on the Registry for a 30-day comment period during which time three comments were submitted. MOE considered these comments, but made no changes.

Those who commented through the Registry on the proposed regulations raised the following issues:

Secured Creditors and Receivers
One commenter raised a concern regarding the point at which a secured creditor becomes a "receiver". The issue was whether activities not involving physical control over property, such as initiating power of sale proceedings or registering a property for sale, constitute a position as "receiver". The commenter urged that protection be expanded to include these types of activities to ensure clarity. In response, the ministry stated that actions such as power of sale proceedings fall within the definition of "receiver" as outlined in the *Environmental Protection Act* and therefore, are already protected.

The commenter also raised a question regarding the connection between the legislated 5-year period during which secured creditors are protected from environmental orders following foreclosure, and the 90-day period given to comply with any Act, regulations, approvals, certificates of property use, licenses or permits. The ministry responded that secured creditors are provided with a 5-year grace period after foreclosure during which they are generally not responsible for past environmental problems that are not being actively remediated. However, within 90 days following the foreclosure on a site, secured creditors must be in compliance with all appropriate approvals for any ongoing preventive, clean-up and remediation operations at the site.

Municipalities
Commenters raised the concern that a municipality or its representative would not have the expertise to recognize health or safety hazards and therefore, would not be able to meet the notification requirement. MOE responded that the municipality is only required to notify the ministry when environmental health or safety issues come to the attention of a municipal representative.

A further issue was raised about the 24-hour time period provided in the draft regulations to give notice to the ministry. It was suggested that this should be increased to 72 hours in order to give the municipality sufficient time to process the information. The ministry stated that, under circumstances of imminent danger to health and safety, immediate reporting is imperative for a quick and effective response.

Finally, it was suggested that the regulations stipulate that MOE report back to the municipality on its planned response to the reported circumstances. The ministry responded that there is no authority in the Act to impose this requirement on MOE.

SEV:
It is a ministry's responsibility to take every reasonable step to ensure that the Statement of Environmental Values (SEV) is considered when making decisions that might significantly affect the environment. MOE reviewed its SEV in developing the *BSLAA* and once again in drafting the regulations for the *EPA* and *OWRA*. The ministry has provided an explanation of how the SEV was considered.

MOE stated that the proposed regulations meet the requirements of its SEV statement on environmental protection because cleaning up brownfields improves soil and water quality, protects human health and revitalizes the community. MOE added that the ecosystem approach will be supported through the encouragement of brownfield redevelopment and by the requirement that the ministry be notified when stakeholders become aware of a danger to the health or safety of any person to allow for immediate and appropriate responses. Finally, MOE noted that cleaning up and re-using of land will help conserve Ontario's green space, in keeping with its SEV's resource conservation goals.

Other Information:
MOE posted a proposal for a regulation (RA03E0002) for a 60-day comment period on February 28, 2003. The proposed regulation under the *EPA* prescribes regulatory requirements relating to records of site condition, the environmental site registry, environmental site assessments, emergency orders, and site condition standards and risk assessments.

ECO Comment:
The *BSLAA* left many significant issues relating to brownfield redevelopment to be addressed through regulations. For example, the "circumstances" in which a fiduciary is obliged to give notice to a provincial officer is a matter that must be prescribed in the regulations. The ECO acknowledges that the proposed regulations address substantive issues regarding environmental liability and notice requirements.

However, as stated in the ECO's 2001/2002 Annual Report (page 100), there is no enabling legislation to allow MOE to craft regulations generally protecting owners or those in control of a site from liability for off-site contamination resulting from existing site contamination. Neither is there protection for off-site contamination that might be caused by remediation work. Thus, owners or controllers of sites causing off-site contamination may be subject to MOE clean-up orders under the *EPA* and *OWRA*. These regulations specify that the ministry will only make orders against municipalities in certain circumstances; otherwise, the regulations remain silent on this issue. This may continue to deter clean-up efforts.

The ECO commends MOE for clearly summarizing the comments it received and describing its response to each concern. The information provided by MOE indicates that it considered all comments received during the comment period before recommending no changes to the original proposed regulations.

Review of Posted Decision:
Ontario's Anti-Smog Action Plan: Progress through Partnership, 2002

Decision Information:

Registry Number: PA8E0001	Comment Period: 90 days
Proposal Posted: January 20, 1998	Number of Comments: 0
Decision Posted: December 12, 2002	

Description:
Summer smog episodes are a significant health concern in Ontario and the control of emissions of smog precursors is among the Ministry of the Environment's (MOE) top priorities. MOE laid out Ontario's Anti-Smog Action Plan (ASAP or "the plan") in January 1998. The plan commits to a goal for ground-level ozone reduction and a series of reduction targets for specific constituents of smog. The plan, which grew out of a smog-reduction planning process initiated in June 1996, is characterized as "an evolving document." MOE released a first progress report in August 2000.

Ontario's Anti-Smog Action Plan: Progress through Partnership (ASAP 2002 or "the 2002 progress report") is the second progress report to have been issued. It provides an update on progress made by ASAP partners towards the smog-reduction goals and activities outlined in the plan. The 2002 progress report consists of five sections and an Executive Summary. The salient points of each section of ASAP 2002 are described below.

1.0 Report Overview
The 2002 progress report begins with an overview and a description of the ASAP. The goal of the ASAP is the reduction of smog-causing pollutants in Ontario, to be achieved through a range of voluntary and regulatory actions undertaken by a variety of partners. ASAP partners include government groups, industry (companies and associations), non-governmental organizations, as well as academics/researchers, who have declared their commitment to the plan's goals by signing the Anti-Smog Accord. The accord presently has over 50 signatories. The ASAP Operating Committee - comprised of representatives from all sectors – assumes responsibility for "implementing the strategies and building the capacity required to achieve the ASAP goals."

The goal of the ASAP is "to achieve, by 2015, a 75 per cent reduction in the average number of times the 80 parts per billion (ppb) one hour ozone Ambient Air Quality Criterion (AAQC) is exceeded." The baseline is the average number of annual exceedences from 1990 to 1994. In order to achieve this goal, the plan commits to a province-wide emission reduction target of 45 per cent from 1990 levels for both nitrogen oxides (NO_x) and volatile organic compounds (VOCs) by 2015. ASAP 1998 endorsed an interim reduction in particulate matter (PM_{10}) of 10 per cent by 2015, recognizing that a comprehensive understanding of the sources of PM_{10} is needed before effective reduction strategies could be developed. While the ASAP 2002 does not clearly endorse or uphold either, it refers to the interim PM_{10} target and also acknowledges the new Canada-Wide Standard (CWS) established for $PM_{2.5}$ (as well as for ozone). The plan also refers to Ontario's target for sulphur dioxide (SO_2) reduction established under the Canada-Wide Acid Rain Strategy for Post-2000. While not developed within the ASAP forum, the ASAP commits to measuring progress against the SO_2 target for the reason that the pollutant is a "major precursor leading to the formation of fine particulate matter." Section 1.0 also indicates that the benchmarks may be subject to change; the Ontario government has proposed to advance the deadline for NO_x and SO_2 reduction from 2015 to 2010 (see Other Information section below).

2.0 Recognizing Efforts

This section profiles the smog-reduction activities of industry (including cement, steel and chemical), transportation, municipal, provincial (MOE and the Ministry of Transportation), federal government (Environment Canada), non-governmental (i.e., Pollution Probe) and research partners (i.e., Centre for Research in Earth and Space Technology) to the ASAP. It describes the following smog reduction activities that are undertaken by MOE with the involvement of ASAP stakeholders:

- Emissions Caps and Emissions Reduction Trading for the Electricity Sector
- Update to the Environmental Assessment Process for the Electricity Sector
- Mandatory Monitoring and Reporting of Emissions
- Smog Advisories and Smog Watches
- Smog Alert Response Program
- Smog Alert Materials for Municipalities and other Organizations

3.0 Evaluating Progress in Achieving Smog Reduction Targets

The third section quantifies emissions and reductions of key constituents of and precursors to smog from a range of emitters and compares them to the established targets. A key feature is a series of four tables – one for each of NO_x, VOCs, SO_2 and $PM_{2.5}$ - which present data on current and estimated future emissions. The data are broken down by source type (i.e., point versus area), sector and year - data for NO_x, VOC and SO_2 are presented for six years between 1990 and 2015; $PM_{2.5}$ emissions are reported for 1990 and 1998 only. Each table includes totals for each year considered, allows for a comparison of current and estimated future emission reductions to reduction targets for each pollutant and provides a gap analysis under both 2010 and 2015 target date scenarios.

The tables reveal that emission loadings of all four pollutants have declined since 1990. The tables also reveal, however, that Ontario is not on track to meeting its reduction targets for any of the smog-causing pollutants (with the possible exception of NO_x, under a 2015 deadline scenario). ASAP 2002 comments on this: "More work may be required to achieve anti-smog targets."

4.0 Complementary Air Quality Initiatives

This section describes a number of air quality initiatives undertaken outside of the ASAP forum. It profiles activities undertaken by and involving MOE, the Canadian Council of Ministers for the Environment (CCME), several municipalities, and Environment Canada. It highlights the following MOE activities:

- Updating Air Standards
- Supporting U.S. EPA Smog-control Plan in U.S. Courts

5.0 Conclusions and Lessons

The final section provides a brief recapitulation of key ASAP efforts and progress. It describes the "setting of tough emissions caps" by MOE and the ministry's monitoring and reporting regulations as examples of many of the "groundbreaking initiatives" that have been implemented. It states that: "Since 1990, good progress has been made in reducing absolute emissions that contribute to smog and acid rain." The section draws attention to some of the sectors from which emissions have increased (e.g., NO_x emissions from non-road engines have increased, VOC emissions from the auto manufacturing sector have increased, SO_2 emissions from cement companies have increased) and acknowledges that, "more work may be required to achieve smog and acid rain reduction goals."

Implications of the Decision:
Smog is a complex mix of pollutants, consisting mainly of ground-level ozone and fine particulate matter (PM_{10}). "Ground level ozone is formed when two groups of pollutants – nitrogen oxides (NO_x) and volatile organic compounds (VOCs) – react in the atmosphere in the presence of sunlight." Fine particulate matter is categorized in one of two ways: as inhalable particulates (IP) or respirable particulates (RP). IPs are smaller than 10 microns in size and easily inhaled. RPs are smaller than 2.5 microns in size "and can travel to the deepest part of the respiratory tract when inhaled."

Smog has many adverse effects. It can cause damage to human health and therefore constitutes a significant burden on the economy. It aggravates a wide range of health problems, such as asthma, bronchitis and other respiratory diseases. In 1998 MOE noted, "it is estimated that current levels of inhalable particulates are associated with 1,800 premature deaths and 1,400 cardiac and respiratory hospital admissions in Ontario every year." The Ontario Medical Association has estimated that "air pollution costs Ontario citizens more than $1 billion a year in hospital admissions, emergency room visits, and absenteeism." Smog can also have significant ecological impacts; ozone is one of the most damaging atmospheric pollutants affecting crops, forests, ornamental plants and terrestrial ecosystems.

There are many sectors that contribute to smog in Ontario, the main ones being the transportation, the electricity-generating and industry sectors. The transportation sector is the greatest NO_x emitter, while smelters and other industries are responsible for the greatest percentage of Ontario's SO_2 emissions. Consumer products and the transportation sector are the most significant emitters of VOCs. PM_{10} emissions are more evenly spread across sources. Significant contributors to the release of PM_{10} include smelters and the transportation and pulp and paper production sectors. The ASAP process constitutes an attempt to reduce the province's smog emissions by involving the broad range of sectors that contribute to creation of smog, as well as other interested organizations.

Public Participation & *EBR* Process:
Four documents central to the ASAP have been posted on the Environmental Registry since the inception of the smog-planning process. The title of the documents, and the date at which they were posted as a proposal and/or decision is noted below.

Document	Posted As
Towards a Smog Plan for Ontario – A Discussion Paper	• Policy proposal with 75-day comment period, June 1996 • Decision, October 1996
Ontario's Smog Plan: A Partnership for Collective Action (ASAP 1998)	• Policy proposal with 90-day comment period, January 1998
Ontario's Anti-Smog Action Plan: Progress through Partnership (ASAP 2000)	• Policy proposal, updating ASAP 1998 posting, August 2000
Ontario's Anti-Smog Action Plan: Progress through Partnership (ASAP 2002)	• Decision on ASAP 1998, December 2002

The ASAP 2002 decision notice posting indicates that no comments were received on the ASAP 1998 proposal. The ASAP 2002 decision notice posting also encourages comments on ASAP 2002. It stated: "Comments received will be forwarded to the Smog Plan Steering Committee for consideration in the preparation of Updates/Progress reports."

MOE provided an additional public participation opportunity for the original discussion paper; the ASAP 2002 decision notice points out: "Over 150 participants attended the "Towards a Smog Plan in Ontario" workshop in June 1996." The registry decision notice also highlights the fact that the ASAP process relies on the participation of many partners. "Over 2000 people participated in the Sector/Subsector Work Groups over the last year."

SEV:
MOE considered its Statement of Environmental Values (SEV) in conjunction with ASAP 1998 and found that the plan supports its main objectives. It encourages *environmental protection* by encouraging pollution prevention measures where possible to achieve the reductions of pollutants that contribute to smog. It has employed an *ecosystem approach* by considering the impacts on vegetation, human health, economics and other parts of the ecosystem. It encourages *resource conservation* by seeking to reduce emissions through the conservation of energy and by minimizing the use of volatile chemicals. MOE also intended to integrate the scientific knowledge of smog, health and vegetation effects, and socio-economic impacts in the development of the smog plan.

Other Information:
Smog-related government proposal
On October 24, 2001, MOE proposed to advance its target dates for the 45 per cent reduction in NO_x emissions and the 50 per cent reduction in SO_2 emissions from 2015 to 2010. MOE's proposal was posted as a policy on the Environmental Registry granting 90 days for public comment. The proposed revised timelines were described as "a key step towards meeting the

commitment of achieving the Canada-wide Standards for ozone and fine particulates by the year 2010." As of February 10, 2003, MOE had not posted a decision notice on this proposal.

Following national negotiations on CWSs for the two smog-related substances in the summer of 2000, Ontario agreed to shorten its reduction targets by five years "on the condition that the federal government successfully negotiate "equivalent reductions" with the U.S. government during the fall of 2000." While MOE claims that the federal government failed to successfully negotiate such reductions, MOE has however indicated that it "may choose to make new commitments in the future."

While the NO_x and SO_2 emissions reduction proposal remains undecided, the progress report does, however, indicate the extent to which the ASAP process is on track to meeting both 2010 and 2015 scenarios for NO_x, VOCs and SO_2 emissions. It also conducts a gap analysis under both 2010 and 2015 target scenarios for the same pollutants.

ECO Comment:

The reporting of progress

MOE and ASAP partners are to be commended for having significantly improved the way in which they quantify and report on progress in meeting ASAP smog reduction targets. As noted by the ECO in our 1999/2000 Annual Report, ASAP 2000 "did not clearly compare actual smog reduction achievements to stated targets"; ASAP 2002 does. The four tables and accompanying text found in Section 3.0 of the most recent progress report constitute a comprehensive science-based analysis of emissions and emission reductions. The comprehensive reporting of progress against targets gives the reader a clear picture of the extent to which partners are on track. While the first progress report itemized emission reductions in a confusing way: some as an absolute quantity, some as a quantity per year, and others simply as a percentage, the ASAP 2002, in contrast, describes emissions reductions in a consistent way. The tables in Section 3.0 present emissions, targets and gaps in absolute terms. Section 3.0 text also describes all emissions, and changes in emissions, in absolute terms. Descriptions of the change in emissions over a period of time are accompanied by percentage descriptions for emphasis in some cases. Such consistency makes it easier to compare the results across sectors and years.

The second progress report is also more comprehensive than the first. Section 2.0 presents what appears to be a fairly complete listing of the key activities and initiatives that MOE and other ASAP partners have undertaken or plan to undertake (such as MOE's requirement that big and small plants report emissions and others as listed above).

While MOE does refer to its new mandatory monitoring and public reporting regulation (O.Reg. 127/01) for small and large emitters (including electricity generators, industries, municipalities and institutions), it would have performed an important service by providing information on when and how the emissions data generated by facilities can be publicly accessed. The second round of annual reports for large companies and the first round of reports for small companies are due by June 1, 2003. Emissions data can be accessed through MOE's Air Emissions Monitoring Web site (http://www.ene.gov.on.ca/environet/onair/splash.htm).

MOE didn't comment on the recent revision of its air quality index to include $PM_{2.5}$, and explain the impact of this change, in its discussion on smog advisories and smog watches, perhaps because the report was written before the revision was made (please refer to the review of the changes to air quality index, in this year's annual report pages 88-91 for more information).

Progress made

The ECO commends MOE and ASAP partners for having increased their commitments to smog-reduction activities between 1998 and 2002. But this latest progress report shows that ASAP partners are not yet on track to meeting their stated target, much less any more stringent target that may be adopted in the future. MOE also voices this concern: "It is widely recognized that existing voluntary measures and regulations will not be enough to meet those commitments. Therefore the government is moving toward the implementation of additional measures that will ensure all of the province's clean-air commitments are met." The ECO will continue to review future ASAP progress reports.

Public access and publicity

There are a number of ways MOE could improve public access to information about ASAP. First, information about ASAP has not been provided to the public as frequently as originally intended. In January 1998, ASAP partners committed to release updates or progress reports on an annual basis – only two progress reports have been published since that time. Second, the ASAP 2002 decision notice posting did not provide a link to ASAP 2002, nor is there a link to ASAP 2002 on the Air Quality in Ontario website (www.airqualityontario.com). A link to ASAP 2000 and to Air Quality in Ontario reports, including the most recent report issued in 2000, is, however, provided on the Air Quality Ontario web site. MOE's Air Quality in Ontario site is an important source of "real-time" information and smog-related documents. The Air Quality in Ontario series documents air quality trends (with a focus on ozone, SO_2, carbon monoxide, NO_x, VOCs, toxics, PM and total reduced sulphur compounds) in the province. Issued on an annual basis, the reports are a useful and well-organized source of information.

While MOE did provide public notice of ASAP 2002 on the Registry, the ministry could have used additional means to alert the public to the release of the report. MOE did not announce the publication of the ASAP 2002 with a media release, even though it issued two smog-related media releases on December 20, 2003, the same day that ASAP 2002 was posted on the Registry. MOE's failure to issue a media release for ASAP 2002 is inconsistent with its approach to publicizing its past ASAP reports - a media release was issued upon the publication of ASAP 2000 (August 24, 2000). MOE also failed to advertise the ASAP 2002 on its Internet home page. The ECO has made similar observations in the past with regards to publicity around Air Quality in Ontario reports. ASAP 2002 is a useful progress report, and ECO encourages MOE to make the report more easily accessible to facilitate public understanding of and involvement in the smog-reduction process.

Review of Posted Decision: *Safe Drinking Water Act, 2002* (SDWA)

Decision Information:

Registry Number: AA02E0001	Comment Period #1: 30 days
Proposal #1 Posted: August 29, 2002	Number of Comments: 78
Decision #1 Posted: October 29, 2002	

Registry Number: AA02E0002	
Proposal #2 Posted: October 29, 2002	Comment Period #2: 30 days
Decision #2 Posted: December 17, 2002	Number of Comments: 30
Came into Force: June 1, 2003 (Partial Proclamation)	

Description:

Safe drinking water is considered a basic entitlement by most Canadians and its provision is essential for the protection of human health. The Walkerton water contamination disaster provided a stark reminder of the consequences of neglecting the need for safe water supplies and soundly managed treatment and distribution systems. In December 2002, the Ontario government passed Bill 195, the *Safe Drinking Water Act, 2002* (*SDWA*). This new statute is designed to bring the key legal and policy provisions affecting the treatment and distribution of drinking water under the rubric of one statutory umbrella. Many provisions of the new Act were proclaimed into force on June 1, 2003, the same day that a key set of new regulations under the Act took effect.

After the Walkerton disaster, the Ontario government established a public inquiry headed by Justice Dennis O'Connor to examine the factors that contributed to the May 2000 events in Walkerton, and to make recommendations aimed at strengthening provincial oversight of water delivery systems. The Walkerton Inquiry heard evidence from many actors involved with the tragedy, and a wide range of stakeholders provided testimony and reports on how to improve Ontario's drinking water systems. Immediately after Part One of the Walkerton Inquiry Report (WIR) was released in January 2002, then-Premier Harris stated the Ontario government was fully committed to implementing all of Justice O'Connor's recommendations in the WIR. This commitment was repeated by the Premier and the former Minister of the Environment numerous times in the reporting period, and MOE's work on the *SDWA* and related initiatives outlined in this decision review provide strong evidence that the Ontario government is acting on its commitment.

One of the key recommendations made in Part Two of the WIR proposed the development of a source-to-tap drinking water policy, followed by enactment of a *SDWA* embodying the principal elements of that policy. Justice O'Connor recommended that a new drinking water policy cover all elements of drinking water (source protection, standards development, treatment, distribution, emergency response), and noted that development of such a policy is a "necessary first step in achieving safe drinking water." The WIR also stated that MOE should be the lead agency responsible for developing and implementing the policy. According to MOE, the *SDWA* and accompanying changes to MOE administrative systems, regulations and guidelines will implement 50 of the 93 recommendations made in Part Two of the WIR, and an additional 14 of the recommendations contained in Part One.

Section 1 of the *SDWA* states that the purposes are: "(1) to recognize that the people of Ontario are entitled to expect their drinking water to be safe; and (2) to provide for the protection of human health and the prevention of drinking-water health hazards through the control and regulation of drinking-water systems and drinking-water testing."

The *SDWA* includes the following key components:

- Mandatory licensing and accreditation of all laboratories that test drinking water;
- New standards for drinking-water treatment, distribution, quality and testing;
- Mandatory certification of all operators of municipal drinking-water systems (MDWSs), including those who have been "grandparented" into their roles;
- Mandatory licenses for all municipal owners of drinking-water systems;
- An Advisory Council on Drinking Water Quality and Testing Standards (ACDWQTS) to conduct research on water issues;
- Standards for the current unregulated practice of transportation and delivery of drinking water in bulk quantities;
- A "standard of care" for municipalities, requiring that they act honestly, competently and with integrity to protect residents; and
- Stronger enforcement and compliance provisions, including creation of a provincial Chief Inspector to oversee inspection policies, training of Ministry inspectors, frequency of inspections and annual reporting.

The Minister of the Environment tabled Bill 195 in the Legislature in late October 2002. At the same time as Bill 195 was tabled, the Ontario government announced the establishment of an Advisory Committee on Watershed-based Source Protection Planning (ACWSPP) to begin work toward developing a watershed-based source protection framework for Ontario. The Ontario government claimed that these steps are designed to meet Justice O'Connor's recommendations on source protection planning. The work of the ACWSPP to develop a comprehensive watershed protection framework will be reviewed in future ECO annual reports.

A crucial feature of the new legal and regulatory system created by the *SDWA* is that lines of accountability and respective roles and responsibilities are clearer for all the actors in MDWSs. Approximately 90 per cent of Ontarians get their water from a MDWS. As recommended by Justice O'Connor, many features of the *SDWA* have been developed to allow MOE to apply a risk-based approach relating specific regulatory requirements to potential impacts on the health of water consumers. To achieve the goals of the WIR, the *SDWA* empowers MOE to develop a system of accreditation, permitting and licensing requirements that will apply to municipal and some non-municipal drinking water providers. Owners of MDWSs and regulated non-municipal drinking-water systems (NMDWSs) will be required to ensure that an accredited operating authority operates their systems and that operators hold a valid operator's certificate. MOE will designate accreditation bodies and create a quality management standard to establish the accreditation standards for these operating authorities. All MDWS owners will be required to hold a new Drinking-water License (DWL) and to obtain a Drinking-water Works Permit

(DWWP) in order to establish or alter a drinking water system. In order to obtain a DWL, municipal water owners will have to provide the ministry with operation and financial plans, proof that an accredited operating authority will be in charge of the system, and proof that all required permits (such as a DWWP) are in place. In addition, certain NMDWSs are exempted from approval by O. Reg. 170/03, but require an engineer's report. The roles of water testing labs and MOE inspectors also are clarified. For the first time in Canada, there will be a mandatory licencing and accreditation system for laboratories that test drinking water.

Many important sections of the *SDWA* came into force on June 1, 2003. These include: ministerial powers and duties under sub-sections 3(1) to 3(3); duties of owners and operating authorities under sub-sections 11(1) and 11(2); duties to report adverse test results under section 18; the prohibition against contaminating a drinking water system in section 20; a range of approval and licencing powers contained in sections 31, 32, 34 to 39, 41, 45 and 51; sections pertaining to the regulation of NMDWSs including sections 52, 53, 54(1), 54(3) to 54(6), and sections 55 to 61; sections related to inspections, compliance and enforcement including sections 81 to121; provisions on appeals in sections 126 to 136; the offence provisions in sections 137 to 155; and a range of regulation-making powers and miscellaneous changes contained in sections 156 to 170.

Several key sections of the *SDWA* did not come into force on June 1, 2003. These include: the requirement under s. 3(4) that MOE prepare annual reports to the Legislature on drinking water; the requirement that the minister establish the ACDWQTS; the administrative penalty provisions contained in s. 121; and the requirement in s. 19(1) that owners and operators of systems meet a statutory standard of care. As of June 2003, it was unclear as to when MOE intends to proclaim these *SDWA* sections in force. In addition, certain regulations have yet to be finalized, including those related to: operator training and certification; laboratory licencing; MOE inspection requirements; and quality management standards. MOE has advised the ECO that many of these regulations will be finalized before the end of 2003. The ECO intends to review the new *SDWA* regulations passed in May 2003 in next year's annual report.

Calls for a Safe Drinking Water Law Began in the 1980s

Some stakeholders, such as the Canadian Environmental Law Association (CELA) and Pollution Probe, began calling for provincial legislation on safe drinking water in the early 1980s. In June 2000, CELA and the Toronto Environmental Alliance filed an Application for Review under the *EBR* regarding the need for a safe drinking water law (SDWL). The applicants argued that the public interest warranted a review because the regulatory system for drinking water under the *OWRA* was inadequate, similar legislation in the U.S. has been a success and the failure to establish such a law would create potential harm from unsafe drinking water to public health and safety. Moreover, the applicants argued that a SDWL would compensate for provincial downloading, deregulation and downsizing of MOE staff and resources that took place in the late 1990s, provide stringent prohibitions and penalties, and permit citizen enforcement of the law and the right to sue violators of the law. Finally, the applicants argued that a SDWL would be consistent with MOE's Statement of Environmental Values and that other considerations, including the Walkerton tragedy and the unsuccessful attempts to establish a SDWL by earlier private members' bills, argued in favour of enactment of a SDWL. The review application was accepted, and MOE conducted a review. After an internal review process, MOE sent a letter to the applicants in October 2000 stating that there was no need for a SDWL in Ontario and the legislation would not be implemented. (For additional information, see below under Other Information.)

Undissuaded, CELA and other groups presented detailed submissions to the Walkerton Inquiry on the need for a SDWL, and this idea was strongly supported by Justice O'Connor in Part Two of his WIR.

Additional Background on the Features of the SDWA
Similar to O. Reg. 459/00 passed under the *Ontario Water Resources Act (OWRA)* shortly after the Walkerton tragedy, the *SDWA* stipulates that only accredited laboratories can perform drinking water testing. Laboratories will have to possess a drinking water testing license that will specify which tests the laboratory is authorized to perform. Licenses will be issued to laboratories based on factors such as: accreditation requirements, suitability of the facilities and resources, ability to meet notice and reporting requirements, and compliance history. Also similar to O. Reg. 459/00 is a requirement on all laboratories conducting drinking water tests to immediately report any adverse test result to MOE and the medical officer of health. In addition, the *SDWA* codifies and extends the current mandatory reporting and notification requirements for adverse test results that were first established under O. Reg. 459/00 so that either the responsible operating authority or owner must give notice to water users, local medical health officers and the Minister of Environment, with strict penalties for failing to comply. Moreover, the *SDWA* provides MOE Directors with new powers to issue a range of orders to address some matters that were not explicitly provided for in the *OWRA*. For example, MOE can require that drinking water systems comply with any provisions in the *SDWA* regulations, appoint an operating agency or manager to operate a system in place of the owner, or shut down all or part of a drinking water system.

An important new feature of the *SDWA* is the creation in sub-section 19(1) of a statutory standard of care for owners of systems and operating authorities. As recommended in Part Two of the WIR, owners, officers and directors, and individuals who exercise decision-making authority over MDWSs will be required to exercise a level of care, diligence and skill that a reasonable and careful person would be expected to exercise in a similar situation. In sum, sub-section 19(1) will ensure that municipalities have greater responsibility for the actions of their local water providers and staff. Failure to carry out this duty will be an offence under the *SDWA* and an individual can be prosecuted and convicted regardless of whether the owner of the system is also prosecuted and convicted.

Section 7 of the *SDWA* creates the office of the Chief Inspector. The Chief Inspector will be responsible for all inspection activities associated with drinking water and drinking water systems. This includes designing and implementing an inspection protocol, monitoring the frequency of inspections, and training MOE inspectors. Provincial officers carrying out inspection duties will have a range of inspection and inquiry powers similar to the powers under the *OWRA* and the *Environmental Protection Act (EPA)*. This includes, but is not limited to, the right to enter and inspect buildings, take samples or seize items, examine and copy documents, make reasonable inquiries and issue Provincial Officer Orders.

Most offences under the *SDWA* will be subject to maximum penalties of $50,000 or up to one-year imprisonment for individuals, and $200,000 for corporations (which would include municipalities and operating authorities). Maximum penalties for offences relating to providing false information, obstructing a ministry agent from carrying out their duties, failing to comply with an order, or failing to comply with a condition in a permit or license are larger, with a maximum penalty of $100,000 or up to one year imprisonment for individuals, and $500,000 for corporations. For major offences that result in a drinking water health hazard, such as failing to report an adverse test result, there are maximum penalties of $7-million or up to five years imprisonment for individuals, and $10-million for corporations.

The *SDWA* contains a broad range of regulation-making powers which will enable MOE to make regulations that may, among other things: govern the provision of drinking water, drinking-water testing, and the use of administrative penalties; prescribe drinking-water quality standards and conditions that apply to MDWSs and NMDWSs; and govern measures MOE may take when owners and operating authorities fail to comply with a drinking-water quality standard prescribed under the *SDWA*.

Implications of the Decision:
Prior to the passage of Bill 195, there was no comprehensive legislation on safe drinking water in Ontario. Indeed, for decades Ontario's key environmental laws enabled MOE to control water pollution rather than empowering the ministry to protect drinking water at the consumer's tap. The *OWRA*, the primary piece of provincial water legislation, contains water quality provisions designed to allow MOE to protect both surface water and groundwater from pollution caused by discharges in or near water, or by sewage discharges and enables MOE to take remedial and enforcement action. The *OWRA* and its regulations also provide a regime for licensing water taking, water wells, water supply and treatment facilities (now partly superceded by the *SDWA* provisions).

Other legislation also has played an important role in protecting drinking water. For example, three key statutes administered by MOE – the *Environmental Protection Act*, the *Pesticides Act* and the *Environmental Assessment Act* – have played a crucial role in addressing possible sources of pollution and requiring companies, individuals and other dischargers to undertake plans and due diligence systems to prevent illegal discharges of pollutants and mitigate adverse effects to the environment. Other provincial laws such as the *Planning Act*, the *Municipal Act*, the *Conservation Authorities Act* and the *Health Promotion and Protection Act* also provide legal tools that have been used in the past to protect drinking water. In addition to these laws, the Ontario government also enacted the *Nutrient Management Act (NMA)* in June 2002. (For a review of the *NMA*, see pages 68-72 in this year's annual report.) The *NMA* authorizes the Ministry of Agriculture and Food to develop a wide range of regulations regarding farm animals, land application of nutrients and minimum separation distances from municipal wells and surface water.

Prior to Walkerton, many important aspects of water treatment and safety testing were governed by MOE guidelines and policies that were implemented by management and staff at water treatment and distribution facilities, health units, local and central MOE offices and private and public sector labs and given legal effect to the extent that they were incorporated into certificates of approval (Cs of A) issued to MDWS owners and operating authorities under the *OWRA*.

Testimony and written evidence provided to the Walkerton Inquiry demonstrated that, in the lead up to the Walkerton crisis, MOE's approach to regulating MDWSs was paternalistic and uneven. MOE often did not issue orders requiring specific actions by owners and operators of MDWSs, even when chronic problems such as those at Walkerton appeared to merit firm regulatory intervention. Standards applied to MDWSs ranged widely, depending on when infrastructure had been installed and Cs of A and other permits issued under the *OWRA* had been updated. Part Two of the WIR also observed that a significant number of certified operators who have never been required to pass a certification examination (as is normally required by O. Reg. 435/93 under the *OWRA)* continue to work as operators, and noted that 5000 operator licences were granted under the 1987 and 1993 "grandparenting programs". In June 2003, one MOE expert advised the ECO that approximately 1950 of 4500 current water treatment and distribution Class I-IV operators had been "grandparented" into their roles. Under the *SDWA*, all operators will have to be certified and many grandparented operators will be required to undertake further training.

Public Participation and EBR Process:
In August 2002, MOE provided early public notice on the Registry that it was considering the key components of a *SDWA*, and sought comments on the proposed components. MOE summarized the key features of the new system in a clearly written technical description attached as a hypertext link to the proposal notice. The components were based on the recommendations and suggestions set out in the WIR.

Comments on the First Registry Notice
According to MOE, the initial *SDWA* Registry proposal notice drew a total of 78 comments from laboratory associations and laboratories, health units, water works owners, municipalities, environmental organizations and other stakeholders. These submissions included a wide range of substantive and sometimes conflicting recommendations on the *SDWA*. Not surprisingly, most of the comments were from organizations with some expertise on water and drinking-water issues, and many commenters had participated in the Walkerton Inquiry. About a month after the close of the first 30-day comment period, the Minister of the Environment tabled Bill 195 for First Reading in the Legislative Assembly and MOE posted a notice for the bill on the Registry with a 30-day comment period.

In response to public comments on the Stage 1 *SDWA* components proposal, MOE made a number of important policy changes to Bill 195 that were not part of MOE's original August 2002 proposal. For example,

- The revised *SDWA* was amended to clarify the obligations on various parties if a municipality transfers ownership to a private owner. In these cases, the system will be deemed to be a

MDWS, and therefore, would be subject to all requirements under the Act including the requirement for the owner to hold a DWL and the statutory standard of care.

- The revised *SDWA* no longer required owners to obtain sign-off from all users on "fragmentation" of a communal water system (e.g., the replacement of all or part of a MDWS with NMDWS). Instead, owners are required to provide written notice to all users.

- The revised *SDWA* no longer referenced municipal responsibility agreements. Instead, it requires a NMDWS owner to obtain written consent from the municipality, consistent with Section 93 of the *Municipal Act, 2001*, to establish and operate a NMDWS that will serve a major residential development. Municipalities may also require financial assurance as a condition of granting the request.

- The revised *SDWA* was modified to include a requirement for MOE to consult with the Local Medical Officer of Health concerning the proposed fragmentation of both MDWSs and NMDWSs, variances, and lab licence suspensions.

- The revised *SDWA* was amended to require the minister to establish the ACDWQTS. The August 2002 proposal indicated that establishment of the ACDWQTS would be a discretionary power of the minister.

Many groups expressed concern that the August 2002 proposal for the *SDWA* failed to address some of the key recommendations in Part Two of the WIR. For example, Justice O'Connor proposed the adoption of a watershed-based planning process, led by MOE and supported or co-led (where appropriate) by conservation authorities, and involving local interests. As the first line of defence in the delivery of safe drinking water, source protection plans would be developed for each of the province's watersheds and approved by the ministry. The plans would be binding on all provincial and municipal government decisions directly affecting drinking-water safety. Groups like the Ontario Medical Association expressed concern that "the most important action for protecting water at its source" was not part of the August 2002 proposal. These types of comments may have motivated the Ontario government to move ahead more quickly with appointment of the ACWSPP in November 2002.

Although the *SDWA* addresses many of the recommendations of the WIR, some stakeholders noted that implementing the new law will require a large increase in funding for water treatment systems. Estimates for the Walkerton Inquiry prepared by the consulting firm Strategic Alternatives projected the one-time cost of implementing the Inquiry recommendations at between $99 million and $280 million. The continuing annual cost of implementing the WIR recommendations was estimated at $17 million to $49 million. By comparison, Part Two of the WIR points out that a study commissioned by the Inquiry estimated the economic impact of the Walkerton tragedy and compensation to its victims (excluding the pain and suffering and deaths) at over $64.5 million. Justice O'Connor convincingly argued that the reduction in risk to be achieved by implementing the measures proposed in the WIR makes the costs worth bearing.

As a partial response to these concerns about the cost of implementing the WIR recommendations, the Ontario government passed Bill 175, the *Sustainable Water and Sewage Systems Act (SWSSA)* in late December 2002, which will require municipalities to recover the full cost of water and sewer services from taxpayers. (For a review of this Act, see page 105-107 of the annual report.)

Comments on the Second Registry Notice

Consistent with past ECO guidance that ministries should post two consultation notices for complex and controversial proposals, MOE posted a second Registry notice on October 29, 2002 and provided a 30-day comment period. In addition, the Ontario government agreed to hold public hearings on Bill 195 and Bill 175, the *SWSSA*. During the hearings, most stakeholders expressed support for key parts of the *SDWA* outlined above such as mandatory licensing and accreditation of labs, new standards for drinking-water treatment, and new requirements for mandatory certification of MDWS operators.

The ministry received 30 comments in response to its second notice for the *SDWA*. Again, most of the comments were from organizations with some expertise in the issues. The comments covered a wide range of issues, including future regulations that would be developed under the *SDWA*. For example, some municipalities stated that they feared the *SDWA* regulations would be developed to the point where they would feel like they are being micromanaged by MOE. Other stakeholders contended that the definition provided for "drinking-water health hazard" is so broadly written that it may be open to interpretation and could lead to wide differences in interpretation by inspectors, which could result in unwarranted charges or orders being issued. Some municipalities stated that *SDWA* regulations should ensure that they can continue to operate their MDWSs, provide continuous improvements and not overburden their operations with paperwork to the detriment of providing quality service and water. Other municipalities stated that the use of administrative monetary penalties as a means of promoting compliance could be viewed as "a tax" on MDWSs, and could direct limited resources from implementation of improvements to paying for penalties related to minor compliance problems.

Some stakeholders expressed concern about the role of the office of the Chief Inspector, created pursuant to section 7 of the *SDWA*. CELA stated that "creating and empowering this specialized office within MOE should raise the priority and profile of drinking-water safety within MOE's institutional structure and day-to-day operations. However, it must be emphasized that this new office cannot perform effectively unless it is adequately resourced and properly staffed."

In consultations on the Part Two WIR, some environmental groups asked Justice O'Connor to recommend that MOE enact a provision that residents could use to sue a violator of the drinking-water standards simply for violating the standards, and not because they suffered some specific damage as a result. Such a provision would be modeled on the rights contained in the U.S. federal *Clean Water Act* and the U.S. federal *Safe Drinking Water Act*. These environmental groups argued that a right to sue is needed in a SDWL to give residents the ability to sue violators of the law or the drinking-water standards. In response, MOE pointed out that residents can already sue for damages under the *OWRA* where they have suffered harm, and can use the *EBR* to sue where there has been harm to a public resource. In the end, the WIR did not support the idea that residents of Ontario should be able to sue operators under the *SDWA*. Instead, Recommendation 76 of Part Two of the WIR recommends that MOE should create "a process whereby the public can require the Investigation and Enforcement Branch to investigate alleged violations of drinking water provisions." Since the WIR did not make reference to the investigation process under the *EBR*, most observers believe that Justice O'Connor intended that MOE should develop a separate investigation process. Despite this, several environmental groups recommended to MOE that *SDWA* should be prescribed for investigations under the *EBR*.

In its Registry decision notices for both stages of its *SDWA* consultations, MOE provided very good descriptions of the changes that were made.

SEV:
MOE submitted a SEV consideration document outlining how its decision on the *SDWA* reflected various principles laid out in the ministry's Statement of Environmental Values. Briefly, the ministry stated that the decision would further goals spelled out in its SEV such as environmental protection, the ecosystem approach and resource conservation. MOE noted that the *SDWA* supported the ecosystem approach because it will be linked "with source protection initiatives in the future" which will "incorporate the concepts of an ecosystem approach by ensuring that safeguards are in place, from source to tap, to deliver drinking water." With respect to its SEV goal of resource conservation, MOE stated that "[w]hile the proposed Act does not directly address water conservation and water quantity issues, the proposed licencing provisions would require a PTTW and a financial plan which indirectly address these issues."

Other Information:
In the wake of Walkerton and in response to the WIR, the Ontario government became involved in numerous initiatives related to drinking water and protection of groundwater supplies and watersheds. Some of the key initiatives are described below.

Drinking Water Protection Regulations (O. Reg. 459/00 and O. Reg. 505/01)
Shortly after the tragic events in Walkerton, MOE undertook a significant revision of the major regulatory provisions for the protection of drinking water when it passed the Drinking Water Protection Regulation—Larger Water Works (O. Reg. 459/00) under the *OWRA*. Passed in August 2000, O. Reg. 459/00 created legally binding standards for Ontario's drinking water for the first time. The regulation also made other practices previously covered by MOE policies and guidelines part of a mandatory regime. In addition, O. Reg. 459/00 established a public right to information about the quality of their drinking water, and clearer notification requirements in the event of problems. (For a review of O. Reg. 459/00, see pages 110-113 in the ECO's 2000/2001 annual report.) This regulation was augmented by the Drinking Water Protection Regulation for Smaller Water Works Serving Designated Facilities (O. Reg. 505/01) passed in 2001. (For a review of O. Reg. 505/01, see pages 105-108 in the ECO's 2001/2002 annual report.) O. Reg. 459/00 and O. Reg. 505/01 will be repealed when s. 11(2) of the *SDWA* comes into force.

There was a strong response to these regulations from some stakeholders. Indeed, some municipalities and other stakeholders in the municipal sector, NMDWS owners and users, small business people, operators in the tourism sector, as well as the public complained about the rigidity of the rules and the cost implications. MOE received a significant volume of letters and written submissions from individual residents and stakeholder groups, and concerns were raised at the Walkerton Inquiry hearings. In Part Two of the WIR Justice O'Connor noted that the requirements of O. Reg. 459/00 may have been too strict: indeed, he observed on page 494 that the regulation "stiffened some requirements and imposed new costs…It may also have made a few matters more rigid and universal than they need to be." Part Two of the WIR estimated that the one-time costs of the steps taken by the Ontario government after Walkerton would be between $100 and $520 million, and the ongoing annual costs of the steps taken by the Ontario government after Walkerton would be between $41 to $200 million per year. In response, MOE loosened some of the requirements of O. Reg. 459/00 and O. Reg. 505/01 when it passed its new regulations under the *SDWA* in May 2003.

Application for Review regarding the need for a Safe Drinking Water Law
As noted above, in June 2000 two applicants filed an application for review regarding the need for a safe drinking water law under Part IV of the *EBR*. (For a review of the handling of this application, please refer to pages 193-196 of the Supplement for the ECO's 2000/2001 annual report.) In May 2001 one of the applicants, CELA – along with the Concerned Walkerton Citizens group – submitted a detailed report to the Walkerton Inquiry, entitled *Tragedy on Tap: Why Ontario Needs a Safe Drinking Water Act,* which outlined the issues in its June 2000 *EBR* application in greater detail. This brief informed the work of Justice O'Connor on the WIR.

MOE doubled Municipal Water System Inspectors in May 2002
A number of recommendations by Justice O'Connor in his Part One WIR addressed MOE's role in overseeing and regulating the management of MDWSs. Four of these (Recommendations 13, 14, 16 and 17) related directly to the inspection of Ontario's MDWSs. In May 2002, MOE announced that MDWSs will be subject to more rigorous scrutiny because the ministry was increasing the frequency of inspections and doubling the number of inspectors. Specifics of the strengthened inspection program include: doubling the number of the ministry's dedicated MDWS inspectors (by hiring 26 new inspectors in permanent MOE positions), and providing adequate resources to further improve inspections to ensure they are thorough and effective; continuing the ministry's annual inspections of MDWSs, and introducing unannounced inspection (one out of every three inspections will be unannounced); establishing a new written protocol to provide inspectors with standard guidelines to ensure more thorough and effective inspections; and requiring inspectors to conduct follow-up inspections of facilities found out of compliance with *SDWA* regulations. The ministry also announced it was "developing tailored training programs to give its environmental officers the additional technical skills and knowledge to conduct more thorough, in-depth inspections." As well, MOE announced it was exploring potential models for the certification and re-certification of all MDWS operators.

Funding for engineering studies required under O. Reg. 459/00
In April 2001, the Ontario government announced that it would provide a total of $3 million to more than 175 municipalities to help cover the costs of engineering studies required under O. Reg. 459/00. This funding was described by the Minister of Municipal Affairs and Housing as a first step in its Ontario Small Town and Rural (OSTAR) Development infrastructure initiative,

and would help ensure rural Ontario has the ability to supply residents with clean, safe drinking water.

Proposed Regulations under the Nutrient Management Act

In late August 2002, the Ontario government launched stakeholder and public consultations on the development of new regulations under the *Nutrient Management Act*, which was passed in June 2002. (For a review of the *NMA*, see pages 68-72 in this year's annual report.) Like the *SDWA*, the *NMA* (and its regulations) is part of Ontario's comprehensive Clean Water Strategy aimed at implementing recommendations made in the WIR. The *NMA* regulations had not been passed as of June 2003 but OMAF has stated that the regulations will begin to apply to large, new farms in July 2003. The ECO plans to review the *NMA* regulations in a future annual report.

MOE creates new Drinking Water Management Division

Part Two of the WIR recommended the creation of two specialized Branches in MOE, the Drinking Water Branch and the Watershed Management Branch (see Recommendations 69 and 70). On April 7, 2003, the Minister of the Environment announced it would begin establishment of the position of a Chief Water Inspector and create a new Drinking Water Management Division at MOE. According to MOE's Deputy Minister, these changes are intended to bring "increased focus and integration in MOE's continued efforts to ensure safe drinking water throughout the province." To coordinate the process, MOE has established an Organization Design Team, which reports directly to MOE's Senior Management Committee. The ECO recognizes that the establishment of a Drinking Water Management Division with lead responsibility for program and operational activities related to the protection and provision of safe drinking water in Ontario is a complex undertaking. As Commissioner Miller stated at the WIR Part Two hearings in August 2001, the ECO has concerns that creation of such a unit could undermine efforts to promote long-term ecosystem protections that are essential to provision of clean and safe water. Thus, MOE needs to take the time to plan carefully and to deal with the full range of questions and issues that may arise.

Changes to Wells Regulation (Regulation 903, RRO)

In April 2003, MOE amended the Wells Regulation under the *OWRA* (Regulation 903, RRO 1990), thus introducing tougher rules for well construction and decommissioning and higher performance standards for well technicians. The new rules include mandatory training and continuing education for those who construct wells, tougher standards for well construction and decommissioning, and placement of well tags on all new wells. The new regulation also has requirements for the construction and decommissioning of test holes and de-watering wells in order to protect groundwater. In addition, MOE announced $600,000 in new funding for Sir Sandford Fleming College to support training costs for those who construct wells. The three-year funding agreement means that course participants will only have to pay $300 for a 10-day course.

Sustainable Water and Sewage Systems Act, 2002 (*SWSSA*)

In December 2002, the Ontario government also enacted the *Sustainable Water and Sewage Systems Act, 2002*. This legislation is reviewed in this year's annual report at pages 105-107.

Report of Advisory Committee on Watershed-based Source Protection Planning

Commissioner O'Connor made 22 recommendations related to source protection planning in Part Two of the WIR, noting that the development of a provincial framework to guide source protection planning is a critical step in implementing his WIR recommendations. In late October 2002, the Ontario government appointed the ACWSSP. On April 21, 2003, the Ontario government released the final report of the Advisory Committee titled "Protecting Ontario's Drinking Water: Toward a Watershed-based Source Protection Planning Framework". The 55 recommendations in the Advisory Committee report set out a comprehensive framework that addresses roles and responsibilities, the planning process, resources, timing and legislation. A notice about the ACWSPP report was posted on the Registry in April 2003, and the Ontario government is seeking comments on it before work is begun on the required legal and policy changes. The ECO will review work on development of new legislation on source protection in future ECO annual reports.

Six-month moratorium on new PTTWs on Oak Ridges Moraine and Niagara Escarpment

In April 2003, the Ontario government also took temporary action to protect water resources in two of southern Ontario's most environmentally sensitive regions when it passed O. Reg. 153/03 under the *OWRA*, effectively imposing a six-month moratorium on new Permits To Take Water (PTTWs) on the Oak Ridges Moraine and the Niagara Escarpment. The moratorium applies to new applications for PTTWs submitted to MOE after March 1, 2003 for beverage manufacturing (including bottled water), fruit and vegetable canning or pickling, ready-mix concrete manufacturing, and the manufacturing or production of products that contain some or all of the water that is taken. This initiative is consistent with concerns about the PTTW program raised by the ECO in past annual and special reports and a January 2001 brief to the Walkerton Inquiry, and we will review this new regulation in the next ECO annual report.

New regulations under the SDWA passed in May 2003

In May 2003, the Ontario government passed O. Reg. 170/03, the Drinking Water Systems Regulation, under the *SDWA* to replace the Drinking Water Protection Regulation—Larger Water Works (O. Reg. 459/00) and the Drinking Water Protection Regulation—Smaller Water Works Serving Designated Facilities (O. Reg. 505/01) that had been passed under the *OWRA*. Four other new regulations under the Act took effect on June 1, 2003 when the *SDWA* was proclaimed in force. These are: Ontario Drinking Water Standards, O. Reg. 169/03; Definitions of Words and Expressions Used in the Act, O. Reg. 171/03; Definitions of "Deficiency" and "Municipal Drinking Water System", O. Reg. 172/03; and Schools, Private Schools and Day Nurseries, O. Reg. 173/03. O. Reg. 170/03 defines eight categories of drinking-water systems including: MDWSs, including a new category of smaller municipal systems serving less than 100 residences; seasonal waterworks capable of supplying drinking water to the public at a rate of 2.9 litres per second (e.g., campgrounds, hotels, and resorts); private residential systems not on municipal systems serving six or more residences for 10 or more months of the year (e.g., rural subdivisions, condominiums, apartment complexes and mobile home parks); private non-residential systems (resorts, and restaurants) that serve drinking water to the public. In addition, designated facilities serving vulnerable populations (i.e., schools, daycare centres, retirement and nursing homes), previously regulated by O. Reg. 505/01, are now part of the new regulations.

Prescribing the SDWA under the EBR
In January 2003, the ECO wrote to MOE urging that the ministry prescribe the *SDWA* in O. Reg. 73/94 under the *EBR* for posting regulations for notice and comment on the Registry, and for applications for review and investigation. The ECO noted it is important that environmentally significant regulations made under the *SDWA* be posted on the Registry as regular proposal notices under s. 16 of the *EBR* because these decisions will benefit from broad public consultation through the Registry.

The ECO also suggested it would be appropriate to prescribe the *SDWA* for applications for review under the *EBR*. This would allow Ontario residents, in the future, to request a review of the *SDWA* or regulations made under it, should circumstances demand it. The ECO also stated that it would be desirable to prescribe this Act for applications for investigation under the *EBR* in relation to contraventions of the *SDWA* or regulations or rules made under it. However, the ECO recognizes that the Part Two WIR recommended that MOE create a separate resident-initiated public investigation process, and MOE has passed enabling legislation in s. 168 of the *SDWA* which would allow the ministry to pass regulations establishing such a process.

In April 2003, MOE posted a proposal to prescribe the *SDWA* under the *EBR* to ensure the public has an opportunity to receive notice and to comment on regulations made under this Act. Moreover, MOE committed to prescribing the *SDWA* for applications for review under the *EBR*. The ministry is still examining options with respect to prescribing *SDWA* instruments for Registry notices. As of June 2003, it seems unlikely that the *EBR* investigation process will become the prescribed investigation process under s. 168 of the *SDWA*.

ECO Comment:
Without doubt, the *SDWA* is an important advance and provides a vital new system of regulatory accountability. Finalizing this legislation and development of the accompanying regulations have been important steps for MOE and will hopefully restore public confidence in Ontario's MDWSs and regulated NMDWSs.

When all the recent changes described above are viewed together, it seems clear that MOE has begun to establish a strong basis for an overarching policy on drinking water, as called for by Justice O'Connor. However, the ECO agrees with stakeholders who contend that the long-term success of the *SDWA* will partly depend on development of a strong new Ontario government policy and law on source protection. Thus, it is too soon to evaluate if the *SWDA* will achieve all the goals set out in the WIR, and it is essential that MOE develop a sound, integrated policy on drinking water that addresses concerns about source protection and ecosystem health.

The ECO commends MOE for undertaking a thorough public consultation process that took into account the comments and recommendations of various stakeholders and members of the public, and resulted in important amendments to the draft legislation. The ECO also commends MOE for posting multiple Registry notices on development of this important legislation. Since the regulations under this Act will contain crucial implementation details, the ECO is pleased that MOE has proposed to prescribe the *SDWA* under the *EBR* to ensure the public has an opportunity to receive notice and to comment on these regulations. To promote confidence in municipal water distribution and treatment systems, the ECO encourages MOE to consult broadly on regulations and policies related to the *SDWA* and go beyond the minimum requirements of the *EBR*. The ECO also commends MOE for agreeing to prescribe the *SDWA* under other parts of the *EBR*. This will ensure that implementation of the *SDWA* is subject to the transparency and accountability aspects of the *EBR*.

On several occasions, the Ontario government has asserted that the *SDWA* is one of the "best" and "toughest" drinking water laws in the world. Indeed, a commitment to passing the "toughest" drinking water legislation was made by the former Minister of the Environment during Second Reading debate on the *SDWA*. It is difficult to fully evaluate this claim at this time because MOE has not passed some of the key promised *SDWA* regulations (and the ECO had not yet reviewed any of the new regulations as of June 2003) and because of the unique nature of Ontario's regulatory system. While it is true that Ontario's *SDWA* has many important features, it does not contain the powerful 'citizen suit' enforcement provisions found in similar federal legislation in the United States. Moreover, it is unclear whether the alternative resident-initiated investigation process that MOE has promised to establish under the *SDWA* will contain all of the transparency and accountability benefits inherent in the *EBR* process. The ECO will monitor this issue and the implementation of the *SDWA* and report on progress in future annual reports.

Review of Posted Decision:
Sustainable Water and Sewage Systems Act, 2002
(MOE Bill 175, formerly MAH Bill 155)

Decision Information:

Registry Number: AF01E0005/AA02E0003	Comment Period: 60 days
Proposal Posted: December 17, 2001	Number of Comments: 20
Decision Posted: December 17, 2002 (as MOE Exception Notice)	Comes into Force: to be proclaimed

Description:

The *Sustainable Water and Sewage Systems Act, 2002* (*SWSSA*) was enacted by the Ontario government as part of its response to the contaminated water tragedy in Walkerton in May 2000. The stated purpose of the Act is to help "ensure clean, safe drinking water for Ontario residents by making it mandatory for municipalities to assess and cost-recover the full amount of water and sewer services." The Act provides a framework for implementing full cost accounting and full cost recovery for municipalities that provide water or waste water services to the public. Details about implementation of the *SWSSA* will be set out in regulations under the Act that have not yet been drafted. The Act applies to municipalities that provide water or waste water services to the public. A municipality will be deemed to be providing water or waste water services even if it has transferred its authority to do so to another entity, such as the Ontario Clean Water Agency.

The *SWSSA* requires each municipality to prepare and approve a full cost accounting report on the water and waste water services they provide. The report must contain information required by regulations to be made under the Act, including: an inventory of and management plan for the infrastructure needed to provide the water or waste water services, prepared and certified by a professional engineer; and an assessment of the full cost of providing services and the revenue obtained to provide them. The *SWSSA* defines the full cost of providing water or waste water services to include: source protection costs; operating costs; financing costs; renewal and replacement costs; and improvement costs associated with extracting, treating or distributing water to the public, or with collecting, treating or discharging waste water.

Each municipality is required to approve its own report, after a municipal auditor has provided a written opinion on the report. The municipality must then submit the approved report and auditor's opinion to the Minister of the Environment by a prescribed date. The minister may approve the report or require specific changes before approving it.

Once the full cost of providing water or waste water services has been established, each municipality must prepare and approve a cost recovery plan that indicates how it intends to pay the full cost of providing those services. The regulations may set out: which sources of revenue a municipality may or may not include in the plan; conditions or restrictions with respect to different sources of revenue; and the maximum amount that a municipality will be permitted to increase the charges for water or waste water services for any customer or class of customer over any period of time. However, a municipality may increase the charges to any customer or class of customer beyond the prescribed limit with the minister's approval. As with the full cost accounting report, the cost recovery plan must be submitted to the municipal auditor for review and a written opinion before being approved by the municipality and submitted to the minister for approval. Each municipality must implement its approved cost recovery plans by the date that will be specified by regulation.

Where the minister considers it appropriate, the Act provides for joint reports or plans by two or more municipalities, and permits the minister to prepare a report or plan on behalf of a municipality. The *SWSSA* also provides for periodic progress reports, and revisions to reports and plans where circumstances change. Municipalities must also make records concerning the provision of water and waste water services available to the minister for inspection and audit.

The Act allows the minister to order a municipality to pay the full cost of providing water or waste water services where it is not implementing its cost recovery plan or is not taking all necessary steps to pay the full cost of providing water or waste water services. Such an order may require the subject municipality to generate revenue in a specified manner or from a specified source to pay for part or all of the costs of service provision. The Act also gives Cabinet the power to make regulations under the *SWSSA*, including regulations exempting a municipality from any requirement of the Act or a regulation.

Implications of the Decision:
It is likely that the *SWSSA* will have a positive impact on the provision of water and sewage services and on water protection in Ontario. Once implemented, it should ensure that municipal water and waste water systems are self-financing and sustainable. It should also provide municipalities with adequate funds, through water and sewer charges, to finance necessary upgrades to water and sewage systems.

The Act seeks to introduce the principle that consumers should pay the full cost of providing water and sewage services. It is hoped that this will promote water conservation and greater awareness of water and environmental protection in Ontario. The new regime will replace current water and sewer rates, which vary according to municipality but have tended to be heavily subsidized by provincial grant programs, especially in small municipalities. As a result, municipal water prices in Ontario are generally very low, particularly compared to jurisdictions such as Germany, Denmark, the Netherlands, France and the United Kingdom. Subsidizing the cost of water and sewage services encourages the overuse of water resources. Full cost accounting, in fact, was one of the Six Guiding Principles for Sustainable Development set out by the Ontario Round Table on Environment and Economy: " . . . to prevent overuse and exploitation, all prices ideally should incorporate environmental, social, and resource depletion costs." According to Commissioner O'Connor, in Part Two of the Walkerton Commission of Inquiry report, there seems to be room to raise water rates where consumers are not currently paying for the full cost of safe water.

The cost of upgrading water and sewage infrastructure in Ontario is significant. For example, MOE has estimated that it would cost $4.2 billion over the period 1995-2005 to cover repairs and rehabilitation of sewage treatment plants, to accommodate existing needs and expected growth, and to upgrade primary plants to secondary treatment. (See the Environmental Impacts of Sewage Treatment Plant Effluents, pages 35-49 of this year's annual report.)

The transition to higher water and sewage rates should be eased by the fact that the province will have the authority to cap rates, and will approve requests by municipalities to exceed that cap only in special circumstances. As MOE has indicated, it is hoped that this will protect consumers against sudden or unreasonable rate increases. However, full cost pricing may cause financial hardship for smaller municipal systems and for low-income individuals and families in the province.

It is significant that the *SWSSA* recognizes that source protection should be included in calculating the full cost of providing water and sewage treatment. The Act defines source protection as protection of "the quantity or quality of any raw water supply that a regulated entity relies upon or may rely upon in the future for the provision of water services or waste water services to the public." This will help to ensure that municipalities are able to plan for and finance source protection as a primary mechanism for protecting their drinking water supplies. The specific inclusion of source protection in the Act emphasizes the important connection between watershed management and water and waste water services.

The enactment of the *SWSSA* has prompted concerns that it may encourage privatization of water and sewage systems in Ontario. Some stakeholder groups have suggested that multinational companies with an interest in water are pursuing opportunities to operate public utilities in Canada, and that the *SWSSA* may lead to further privatization as municipalities face more complex requirements around full cost accounting, planning and reporting.

Many details about implementation of the *SWSSA* will be set out in regulations under the Act. Until these regulations are made, it is impossible to fully evaluate the implications of the *SWSSA*.

Public Participation & *EBR* Process:

Legislative History

The Minister of Municipal Affairs and Housing introduced the *Sustainable Water and Sewage Systems Act* in the Legislature as Bill 155 on December 12, 2001. A proposal notice for the Act was initially placed on the Environmental Registry for a 30-day comment period on December 17, 2001. The ECO requested that MAH consider extending the comment period given the timing of the notice in relation to the holidays. MAH responded by extending the comment period to 60 days.

On September 23, 2002, the Minister of the Environment reintroduced the *SWSSA* for First Reading in the Legislature as Bill 175. The only change to the bill at that time was the transfer of responsibility from the Minister of Municipal Affairs and Housing to the Minister of the Environment in response to a recommendation in Part Two of Commissioner O'Connor's Walkerton Commission of Inquiry Report. After receiving Second Reading on November 7, 2002, Bill 175 went to the Standing Committee on General Government for public hearings in conjunction with Bill 195, the *Safe Drinking Water Act* (*SDWA*). (See the *Safe Drinking Water Act*, pages 80-85 in this year's annual report.) Following these hearings, this committee made extensive amendments to Bill 175 and reported to the Legislative Assembly on December 5, 2002. Bill 175 received Third Reading on December 10, 2002 and Royal Assent on December 13, 2002.

After the *SWSSA* received Royal Assent, MOE published an exception notice on the Registry for Bill 175. MOE claimed an exception on the basis of equivalent public participation, because the draft legislation had been posted for comment by MAH as Bill 155. According to the exception notice, 20 comments were received by MAH in relation to its Bill 155 proposal notice and these were forwarded to MOE for its consideration.

Public Comments

Comments on the proposal for the *SWSSA* were received from municipal councils, municipal organizations, environmental non-governmental organizations, professional organizations, unions and private citizens. Those who commented expressed a wide range of concerns, but there were a number of common themes. Many commenters were concerned about what the financial implications of the Act would be for small municipalities; some suggested that the government consider using transitional loans, Superbuild funds or other means to assist small municipalities with costs.

Some commenters raised the concern that various elements of the proposed Act might permit and encourage the privatization of municipal water and sewage systems. One organization predicted that rate increases resulting from compliance with the *SWSSA* could lead smaller municipalities to cut costs through third-party agreements with private sector partners or through outright privatization.

A number of commenters expressed concern about the degree of provincial control in the First Reading version of the *SWSSA*. Municipalities and municipal organizations, in particular, objected to the degree of provincial control over the proposed regime. The initial proposal for the *SWSSA* provided for provincial approval of both full cost accounting reports and cost recovery plans prepared by municipalities under the Act, as well as provincial authority to cap water and sewage rates.

Many of the submissions noted that the definition of the "full cost" of services should include all costs. In particular, the government was urged to include costs related to source protection, watershed management and watershed infrastructure in the full cost definition.

Some submissions indicated that the proposed legislation was vague, and that too much was left to regulation. Commenters also recommended that MOE be the ministry responsible for administration of the *SWSSA* and that the Act be subject to the *EBR*.

Along with the comments noted above, a number of additional concerns arose during committee hearings on the Act. Many construction firms and organizations called for mandatory full cost pricing for all municipalities, specific compliance timeframes, entrenchment of the user-pay principle and metering to ensure consumption is tracked and billed. Some groups noted that financially disadvantaged consumers might require assistance. Other submissions to the committee contained recommendations that compliance with the *SWSSA* regime be strictly enforced, that the public be given access to reports under the *SWSSA*, and that professional engineers be involved in the preparation of operational plans and infrastructure reports.

SWSSA Amendments
As noted above, the Standing Committee on General Government made a number of amendments to the *SWSSA* following public hearings on the bill. Most of these changes were intended to address specific concerns expressed by stakeholders and members of the public.

In response to municipalities' concerns about the extent of provincial control in the original proposal for the *SWSSA*, the bill was amended to give more control to the municipalities. Municipalities were given the power to approve their own full cost reports and cost recovery plans, although full cost reports will also be submitted to MOE for the minister's approval following approval by the municipality. Despite concern about the ministry's authority to prescribe a maximum amount by which water and sewage rates may be increased over any period of time in the First Reading version of the *SWSSA*, the ministry retained this power in the revised legislation. However, a provision was added to permit a municipality to request that MOE approve an increase beyond the prescribed limit if it is necessary and in the public interest.

MOE also amended the bill to include the cost of source protection as a component in the full cost of providing services. Many stakeholders, including a number of conservation authorities had urged the government to make this amendment. Other changes included: amended regulation-making powers; the involvement of municipal auditors and professional engineers in full cost reporting; and clarification that only municipalities meet the definition of "regulated entity," although a municipality is still deemed to be the regulated entity where it has transferred all or part of its authority to another person or entity.

SEV:
MOE did consider its SEV in making a decision on this Act. According to documentation provided by MOE, the *SWSSA* contributes to environmental protection because it facilitates sustainable financing in order to provide safe drinking water and to protect and maintain water and sewage systems, including water sources. MOE also considered the inclusion of source protection as an eligible cost for municipal cost recovery to be consistent with the ecosystem approach. In addition, MOE noted that full cost pricing for water and sewage services would result in the conservation of water resources and lead to more efficient water use. MOE also gave consideration to Part Two of Commissioner O'Connor's Walkerton Commission of Inquiry report.

MOE's SEV consideration document is quite brief, given the environmental significance of the legislation, but does indicate that important goals related to environmental protection, the ecosystem approach and resource conservation are addressed in this Act.

Other Information:
Both the *SWSSA* and Bill 195, the *SDWA*, were introduced as part of the Ontario government's response to the Walkerton tragedy. On January 27, 2003, the ECO wrote to MOE and asked that

both pieces of legislation be prescribed for posting regulations for notice and comment on the Environmental Registry and for applications for review (and for investigation in the case of the *SDWA*) under the *EBR*. The ECO has not yet received a response from MOE.

Commissioner O'Connor made recommendations related to full cost accounting and recovery. He recommended that the provincial government require municipalities to submit a financial plan for their water system, in accordance with provincial standards, as a condition of licence for their water systems. He also recommended that, as a general principle, municipalities should plan to raise adequate resources for their water systems from local revenue sources, barring exceptional circumstances.

Part Two of the Walkerton Commission of Inquiry report was published after the *SWSSA* was first introduced by MAH. Therefore, Commissioner O'Connor was able to make specific reference to and recommendations about the draft legislation in the Part Two report. He stated that, in his opinion, "if passed into law, the Act will address many of the important issues concerning the financing of water systems that I discuss in this section. The requirements for a full-cost report and cost-recovery plan, as generally expressed in the proposed Act, are in my view appropriate. The regulations to be promulgated under the proposed Act will be critical since they will define 'full cost' for the purposes of full-cost accounting and recovery, and outline standards to guide municipal financial planning, especially regarding asset management."

Commissioner O'Connor noted that regulations under the proposed *SWSSA* would have to define in more detail the meaning of "full cost," and offered his views about different positions that had been advanced. He suggested that full cost be defined to include, at a minimum, all of the operating and capital costs of the system. He also recommended that municipalities consider the option of raising funds from the water system to support at least part of the costs of implementing the measures the report recommends relating to source protection.

ECO Comment:

The *SWSSA* is a welcome initiative from the Ontario government in response to public concerns about the safe and sustainable provision of water that have intensified since the tragedy in Walkerton in 2000. The Act addresses a number of comments and recommendations made by Commissioner O'Connor in the Part Two report of the Walkerton Commission of Inquiry. It puts in place a system of full cost accounting and cost recovery planning that, in the long run, should encourage greater water conservation and protection in Ontario.

The ECO commends MOE for a thorough public consultation process that took into account the comments and recommendations of various stakeholders and members of the public, and resulted in amendments to the draft legislation.

In particular, the ECO is pleased that the *SWSSA* was amended to take into account source protection costs and considerations. This emphasizes the connection between watershed management and water and waste water services, and should enable some municipalities to plan for and finance source protection as part of providing these services. However, smaller municipalities, and those that rely on water supplies that are affected by a range of other municipal and industrial users, may continue to face challenges. The recognition of source protection costs in the *SWSSA* is a good first step but the implementation of watershed planning is also required. It is also a positive development that the Ontario government established a Source Protection Advisory Committee on November 15, 2002 "to guide the development of a provincial framework for watershed-based source protection planning." This committee released its recommendations for public consultation on April 21, 2003, and the government stated that it planned to introduce legislation on source protection planning in fall 2003.

Given that a great deal of detail has been left to regulations under this Act, the ECO is pleased that MOE has prescribed this Act under the *Environmental Bill of Rights* to ensure the public has an opportunity to receive notice and to comment on these regulations. MOE amended O.Reg. 73/94 in June 2003 to prescribe the *SWSSA* for the purpose of consultation on regulations (Registry #RA03E0012). To restore confidence in municipal water and sewage systems, the ECO encourages MOE to consult broadly on these regulations.

Review of Posted Decision: Strengthening Ontario's Hazardous Waste Management Framework

Decision Information:

Registry Number: RA01E0023	Comment Period: 90 days
Proposal Posted: December 18, 2001	Number of Comments: 21
Decision Posted: December 20, 2002	Came into Force: December 6, 2002 (date filed)

Description:

Ontario Regulation 323/02 requires that all existing hospital incinerators cease operation within one year of the date that the regulation was filed. If any hospital chooses to continue to incinerate its biomedical waste it will have to meet new emission limits (described below); this would likely require the hospital to install substantially new technology as opposed to merely upgrading an existing incinerator. MOE also finalized guidelines for the use of non-incineration and incineration technologies to treat biomedical waste (e.g., used bandages, bacterial cultures, tissues, organs or blood from medical operations):

1. *Ontario Regulation 323/02: Phasing-out Existing Hospital Incinerators in Ontario.* This regulation will amend Regulation 347 R.R.O. 1990 (General Waste Management) made under the *Environmental Protection Act* to require that all existing hospital incinerators operating under Section 29 of Reg. 347 and all hospital incinerators operating under a certificate of approval issued before O. Reg. 323/02 was filed must cease operations by December 6, 2003. Section 29 is revoked on the first anniversary of O. Reg. 323/02 being filed.

2. *Guideline C-17 - Non-Incineration Technologies for Treatment of Biomedical Waste (Protocols for Microbiological Testing) (October 2002).* This guideline describes non-incineration technologies suitable for sterilizing or adequately disinfecting biomedical waste, the regulated reduction levels each technology is required to meet, the commissioning of equipment at a new site, protocols for verification testing and the review of test results. The guideline will be applied through conditions on certificates of approval for new or upgraded biomedical waste treatment in accordance with the requirements of the *Environmental Protection Act*, Part V, Section 27, and Part II, Section 9.

3. *Guideline A-1 - Combustion, Air Pollution Control and Monitoring Requirements for Biomedical Waste Incinerators in Ontario, (October 2002).* This guideline establishes contaminant emission limits for biomedical waste incinerators. The guideline will be applied through conditions on certificates of approval for new or upgraded biomedical waste incinerators in accordance with the requirements of the *Environmental Protection Act*, Part V, Section 27, and Part II, Section 9.

Other parts of this proposal, i.e., draft regulations for PCB destruction and a new biomedical waste definition were not decided and will be addressed by the ministry at a later date, according to MOE (for background on these proposals, see "Other Information"). All of these proposed changes were posted as part of a single Registry proposal.

Background on Biomedical and Hospital Waste Management in Ontario
MOE identified problems with many hospital incinerators in the late 1980s. In 1992, MOE proposed to implement a strategy of closing all pre-1986 facilities once the replacement program was completed. The Ministry of Health and Long-Term Care (MOHLTC) supported the strategy, and had two staff dedicated to the area. Between 1992 and 1995, the strategy was shelved due to cost concerns.

The ECO also noted in our 1998 annual report that the public has raised substantial concerns about biomedical incinerators for a number of years. At that time, the ECO noted that a regulation made under the *Environmental Protection Act (EPA)* exempts hospital incinerators built before 1986 from section 27 of the *EPA*, which requires certificates of approval for operating waste management systems. As a result almost all Ontario hospital incinerators were operating without air pollution control equipment. (A 1991 report by the Ministry of the Environment found that only one of the 106 hospital incinerators operating at the time had air pollution control systems.) Of the 59 hospital incinerators operating in Ontario at the time of the 1998 annual report, none had air pollution control systems installed according to MOE.

In 1998, the environmental organization Northwatch sought leave to appeal the decision to grant approval for a waste disposal site to a company in the City of North Bay. The company was proposing and was granted approval to operate a hydroclave. The organization which sought leave to appeal was concerned over the potential air emissions from this project. For this project, the Environmental Appeal Board found that there was a "negligible change" that there would be a release to the environment of dioxins and furans.

Also in 1998, MOE posted a proposal to revise and consolidate eight regulations into one waste management regulation with the intent of clarifying definitions, focusing action on areas of highest environmental significance, increasing waste diversion from landfills, improving compliance and setting clear, protective environmental standards. Part of the 1998 proposal included a plan to revise the biomedical waste definition (something common to MOE's 2001 proposal). In 2002, MOE decided not to proceed with any aspect of the 1998 proposal. By the time that decision was made, MOE had proposed and was carrying forward with its December 2001 proposal, Strengthening Ontario's Hazardous Waste Management Framework, the subject of this decision review.

Implications of the Decision:
The most significant implication of this decision is that it will force existing hospital biomedical waste incinerators in Ontario to cease operating by the end of 2003, and will likely discourage hospitals from incinerating waste on-site in future. With this blanket closure, the environmental impact of the hospital-generated portion of Ontario's biomedical waste should diminish significantly. At the time of posting the proposal (December 2001) MOE estimated that there were 45 operating hospital incinerators, that the majority of these were over 20 years old and not designed to handle the composition of biomedical waste currently being generated. MOE also

estimated that these units were annually disposing of approximately 2,100 tonnes of waste – roughly 1,400 tonnes of biomedical waste and 700 tonnes of municipal waste. Collectively, these incinerators were characterized by MOE as the fourth largest emitters of mercury and the largest emitters of dioxins in Ontario. Such incinerators are also heavy emitters of particulate matter, heavy metals (e.g., cadmium and lead), hydrogen chloride and carbon monoxide. The phasing out of hospital incinerators should lead to biomedical waste being directed to more modern and appropriate facilities. Air quality, particularly in southern Ontario and urban centers where the incinerators are located, stands to benefit from their closure.

However, environmentally acceptable disposal alternatives will need to be found for the biomedical waste produced by hospitals. In fact, MOE described the one year phase-out lead time as an adjustment period for hospitals to make alternate arrangements. Hospitals, or contractors to hospitals, will need to begin treating the hospital biomedical waste stream using the technologies outlined in one of two guidelines, or export the waste to another jurisdiction.

Guideline C-17 - Non-Incineration Technologies for Treatment of Biomedical Waste

There are four technologies identified in MOE's Guideline C-17 that could be used by a hospital or other organization to replace the incineration of biomedical waste. These are steam sterilization, chemical disinfection, microwave disinfection, and macrowave disinfection (for a description of these technologies, see box below).

Of all the technologies described in Guideline C-14, steam sterilization may become more prominent in Ontario's future biomedical waste management practices (e.g., a proposal for a facility in northwest Toronto, that could treat between 25-60 tonnes per day using autoclave technology, is posted on the Environmental Registry). Autoclave treatment combines moisture, heat and pressure to inactivate microorganisms. These devices vary from bench top models to large commercial models which can treat hundreds of kilograms of waste per cycle. One potential concern with any of the Guideline C-17 technologies, is the fate of contaminants and compounds co-mingled with biomedical waste. These could include cytotoxic drugs (such as radioactive and metal compounds used to kill cancer cells) and reagents. If they remain in the waste after treatment the compounds may end up in a municipal landfill not designed to receive waste containing these compounds (treated biomedical waste will be permitted to go to landfill, if MOE proceeds to implement its new Biomedical Waste Definition and proposed amendments to O. Reg. 347).

Guideline A-1 - Combustion, Air Pollution Control and Monitoring Requirements for Biomedical Waste Incinerators in Ontario, (October 2002)

This guideline establishes emission limits for particulate matter, dioxins and furans, heavy metals, sulphur dioxide, nitrogen oxides and hydrogen chloride for biomedical waste incinerators that would operate in Ontario in the future. The guideline will be applied to any new incinerator proposals or upgrades of existing incinerators, that could be proposed in the future as a consequence of the phase-out of hospital incinerators or as demand arises. As of early 2003, the

Biomedical Waste Treatment Methods of Guideline A-1 and C-17

Guideline A-1 (Incineration Technology) Temperatures in the range of 1000°C are used to achieve high efficiency combustion and destruction of waste. Such temperatures are capable of destroying microbial or viral matter in waste material, provided the incinerator is properly operated. Proper operation involves achieving the minimum combustion temperature in the combustion zone for a certain period of time (residence time). New units generally specify a minimum residence time of 2 seconds; for existing units 1 second may be acceptable. Ash management requirements are also detailed.

Guideline C-17 (Sterilization and Disinfection Technology) There are four technologies identified in MOE's Guideline C-17 that could be used for the treatment of biomedical waste. These are: steam sterilization, chemical disinfection, microwave disinfection, and macrowave disinfection. Each must prove capable of achieving a specified degree of microorganism inactivation i.e., Level 4 (Sterilization) or Level 3 (Disinfection). Level 4 requires a 6 $\log_{10}$ reduction in *Bacillus stearothermophilus* spores (99.9999%) and Level 3 requires a 4 $\log_{10}$ reduction (99.99%). Effectively these measures indicate that a technology can inactivate a very high percentage of a hardy, heat tolerant, indicator microbe (a bacterial spore). Achieving this level of performance provides reasonable assurance that other less hardy pathogens will be inactivated as well. MOE uses the following definitions to describe these technologies:

Steam Sterilization: Steam sterilization includes autoclave, external steam agitation (ESA), hydroclave, and similar autoclave processes where steam, heat and pressure are used. The additional condition for ESA is that the waste is mixed and broken down (not necessarily shredded) by internal mixing arms. As a general rule, the destruction of pathogens is more efficient under these conditions, because of easier and better steam penetration in the waste.

Chemical Disinfection Technologies: Chemical disinfection is achieved by using sodium hypochlorite solution to kill microorganisms. The process requires that the biomedical waste units (bags, boxes or other type of containers) be shredded. Disinfection is achieved when there is a reduction of 4 $\log_{10}$ (99.99% reduction) in the spores of *B. stearothermophilus* or *B. subtilis*. Other chemicals such as chlorine derivatives, ozone or enzymes can be used in chemical disinfection.

Microwave Technology: Biomedical wastes are heated for a minimum of 30 minutes at 95°C using microwaves in the vicinity of 2,450 MHz.

Macrowave Technology: Biomedical wastes are heated in a chamber for a minimum of 30 minutes at 95°C using macrowaves in the region of 64 MHz.

ECO was not aware of any proposals to upgrade an existing, or build a new, biomedical waste incinerator in Ontario. Given that the biomedical waste disposed of by hospital incinerators is such a small portion (about 15%) of the overall biomedical waste produced in the province, it would not appear to be very cost effective for a hospital to upgrade or build a new incinerator. It would seem more likely that hospitals would contract the services of a waste management company to deal with these relatively small quantities of waste, or perhaps adopt one of the non-incineration technologies for on-site waste treatment.

As with the Guideline C-17 technologies, effective waste segregation would be important to minimize the mixing of any potentially hazardous contaminants with biomedical waste and reduce toxic emissions from incinerators. Although MOE encourages this approach, it is not a requirement of the guideline.

Partial Decision and Waste-derived from Rule

An important implication arises from MOE's approach of finalizing Guideline C-17, but not reaching a decision on another component of the proposal – the new biomedical waste definition. Until Guideline C-4 Management of Biomedical Waste and its accompanying regulation come into effect, Guideline C-17 appears to conflict with Regulation 347 if biomedical waste is treated and disposed according to the approach outlined in it. This is because Guideline C-4 and its accompanying regulation proposes that biomedical waste, treated according to guideline, can be sent to landfill, but it does not specify a hazardous waste landfill. But Regulation 347 currently defines pathological waste (it does not use the term biomedical waste) as a hazardous waste unless "in the opinion of the Section 39 Director, the waste that is produced in accordance with the certificate of approval does not have characteristics similar to the characteristics of pathological waste."

Until Regulation 347 is amended by the proposed regulation "Biomedical Waste Management Requirements in Ontario", treating the waste using Guideline C-17 and sending it to municipal landfill would violate the waste-derived rule of Regulation 347. This rule requires that hazardous waste which has been treated or wastes derived from hazardous wastes must be treated as hazardous waste. Among other things, this prevents generators from partially treating hazardous waste or diluting it to bring it below contaminant limits so that it can be sent to a municipal landfill instead of a hazardous waste facility. As it stands in early 2003, biomedical waste treated according to Guideline C-17 would still need to be registered and treated as hazardous waste, unless an explicit Director-issued exemption applies.

Public Participation & *EBR* Process:

Fifty sets of comments were received on this proposal; MOE indicated that, of these, 21 related to the three components (two guidelines and a regulation) which were part of this decision.

Most commenters expressed support for the ministry's proposed phase-out of hospital incinerators. At least four went further to call for the shut down of all types of incinerators in Ontario. Those that did not expressly support the shut-down were silent on the issue i.e., none expressed reservation or urged MOE to keep the incinerators operating.

Several commenters advocated for a pollution prevention strategy to accompany the phase-out of hospital incinerators. They felt that, without such a strategy, this waste stream may simply be diverted to larger regional incinerators without any reduction in the overall amount generated.

MOE did not respond to this concern. Another felt that the incinerator phase-out would compel hospitals to improve their waste segregation and recycling since it would be more cost-effective to treat only the biomedical waste.

Several commenters pointed out the disparity between the different inactivation levels (see box) for the different technologies: Level 3 for chemical disinfection and Level 4 for the others. One commenter asked "why the dual standard?" and several others suggested that chemical technologies should have to meet the same requirements as the other technologies (level playing field argument). Those that commented on this point were unanimous in the opinion that the inactivation level should be the same for all technologies. MOE did not respond to this concern.

MOE Guideline C-17 Definitions of Disinfection and Sterilization

Disinfection: Disinfection refers to a level of destruction or inactivation of pathogen bacteria. Disinfection levels can range from low level to high level, to sterilization. Sterilization is the highest level of disinfection in biomedical treatment.

Sterilization: Sterilization refers to a level 4 treatment and involves the killing of all microbial life forms to a level of 6 log 10 or higher, meaning that a least 99.9999 % of the original spores of *B. stearothermophilus* have been destroyed in the waste, or that only one spore or less has survived the treatment from a population of one million spores.

One commenter, a microbiologist, contended that the definition of sterilization in the C-17 Guideline is "misunderstood" and cited an example: If a waste product contained 10^8 organisms and the "sterilization" standard of 6 $\log_{10}$ kill (99.9999%) was achieved, then there would still be 100 organisms remaining active – this may qualify as disinfection, but not sterilization.

Several commenters raised the potentially problematic issue of cytotoxic and otherwise toxic substances (e.g., mercury and X-ray fluids) being mixed with or classified as biomedical waste. An example of a cytotoxic substance is the class of drugs used to kill cancer cells; they could be inadvertently harmful to healthy cells of a living organism if improperly handled, disposed of, or ingested. Commenters indicated that there is a need to carefully review the wording in Guidelines C-17 and C-4 (not part of this decision) for potential conflicts involving anatomical waste treated with cytotoxic chemicals and how a generator would determine its appropriate form of treatment and disposal. One commenter suggested a decision tree would be useful. This is a serious concern, but MOE did not indicate how it might be rectified.

At least two commenters stated that the requirement to store treated wastes until verification of the batch is complete was too onerous. For most generators it would involve designating or building storage areas separate from other wastes which are large enough to hold treated wastes until it has been confirmed that they can go to disposal. This could pose a significant cost to many facilities. MOE responded by amending the guideline so that treated waste could go directly to landfill, ahead of the periodic verification testing of the disinfection technology, thereby alleviating most of the requirement for extra storage space.

A few commenters felt that the new requirements and their potential cost would force hospitals to abandon waste treatment for the most part, and seek a contractor for this service. MOE did not indicate that this was an explicit objective of the ministry's proposal. Another commenter felt that the environmental technology sector of private industry was ready to work with stakeholders to implement MOE's new regulations and guidelines, provided a firm commitment is made by government to implement them.

One commenter suggested performance testing of sterilization / disinfection equipment in addition to commissioning / re-commissioning and verification testing.

Finally, there were also many comments of a detailed scientific or technical nature, relating to matters such as the choice of indicator species, location of test species strip in an autoclave, the use of terminology to describe the technology's efficacy. Some of these comments, though highly relevant to the topic, appear to be more detailed than MOE was intending to include in a guideline of this nature (which specifies outcomes, rather than methods in great detail). Based on this approach it could be understandable that MOE might not incorporate a large measure of these comments. These detailed comments would make useful input to an MOE education campaign or best practices manual to accompany the guideline.

Referring to *Guideline A-1 - Combustion, Air Pollution Control and Monitoring Requirements for Biomedical Waste Incinerators in Ontario, (October 2002)* a commenter felt that the guideline should be adopted as a regulation rather than a guideline, to ensure its application to all biomedical waste incineration facilities and that MOE should clarify whether the guideline is to apply immediately to existing facilities that remain in operation during the phase-out period. MOE did not clarify the relationship between the guideline and the proposed phase-out of existing incinerators. The commenter also felt that the guideline's adoption of emission limits rather than point of impingement standards was a welcome development.

Also regarding A-1, the commenter felt that the guideline focuses exclusively on an emission control technology-based approach to limiting emissions and fails to introduce limits on inputs into biomedical waste incineration facilities or take a pollution prevention approach. Such measures were needed, it was felt, to deal with wastes containing mercury, other heavy metals, or chlorinated plastics such as PVC – considered to be the source of some of the most problematic emissions from biomedical waste incinerators. Another commenter felt that the guideline should include provisions for the zero discharge of certain toxics, such as dioxins, mercury, and other such substances.

One commenter expressed concern about the operation of incinerators, even if they are new and guided by modern standards.

One commenter was concerned that MOE was proposing to abandon the derived-from rule for the disposal of treated biomedical waste, and particularly in the absence of a rationale that disposing these wastes in a non-hazardous waste landfill was safe for the environment and human health. This comment was made by reviewing Guideline C-4 (a proposal not yet decided) against Guideline C-17. Though the ECO is not able to comment on C-4 as it is still a proposal, the issue raised applies to part of this decision (C-17) and its compatibility with Regulation 347 which permits its discussion (as discussed above under "Implications").

The one-year timeline for phase-out was a concern for two commenters. One expressed concern that biomedical waste might be sent to landfill over this period. The other wondered whether the new combustion guideline (A-1) would apply to the incinerators for the balance of their operating life. MOE did not address these points.

MOE's Response to Comments / Public Consultation
In addition to the 90-day *EBR* comment process, MOE also met with 2 different stakeholder groups and associations about the proposal. The effect of comments on the decision were the following two changes to their Guideline C-17:

1. Some stakeholders expressed concern over the reference in Guideline C-17 to a treatment method known as "hydroclaving" and recommended that it be replaced by another treatment method, known as "steam sterilization". Steam sterilization includes hydroclaves, autoclaves, external steam agitation and similar autoclave processes where steam, heat and pressure are used. The Ministry agreed and adjusted Guideline C-17 to reflect this change.

2. MOE wrote that comments were received about "the frequency of verification testing" and that the ministry "agreed with the comments and clarified the guideline accordingly." In the decision notice, MOE did not state clearly how or why the commenters wanted the frequency altered, or how its decision altered the guideline, stating only that the guideline was "clarified." MOE made a significant change to the verification testing requirement, but this change would not be evident to readers without a careful comparison of draft and final versions. The final form provides more flexibility to facilities. While the draft proposed that treated waste would require testing before leaving the site, the final version requires a verification test at least every six days. In the interest of transparency, MOE should point out such changes in the description of decisions, and should provide reasons for the changes.

Commenters raised many more issues in this process than MOE acknowledged in their decision notice. MOE should have done a more complete job of dealing with the comments and explaining the effect of comments on the decision. Aside from this shortcoming, the language and terms used in the decision posting was generally appropriate for a broad public audience.

SEV:
MOE had the opportunity to demonstrate that many aspects of this decision are consistent with its Statement of Environmental Values. However, MOE did not undertake an original consideration of its SEV for this decision. Instead, the Ministry filed what appears to be an SEV consideration for a previous *EBR* proposal-decision process (RA8E0023, which proposed, but did not carry out the amalgamation of eight waste management regulations into one). While it is true that the 1998 proposal to revamp Regulation 347 does overlap with this initiative, this type of re-use of a SEV consideration is not permitted by the *EBR*. As a result MOE's SEV consideration has very little direct applicability to the decision (RA01E0023) under review. It is apparent that MOE staff failed to pay adequate regard to its SEV consideration in this case.

Regulatory Impact Statement:
MOE's regulatory impact statement repeats information available in the decision notice, or which is otherwise available or evident. MOE did not provide an analysis of the social, economic or environmental consequences of the proposed regulatory action, as is contemplated by the *Environmental Bill of Rights*. For example, on phasing out hospital incinerators, MOE wrote:

"The proposed regulation will require that all existing hospital incinerators be phased-out within one year of the regulation taking effect. This will remove the need for the current exemption for existing hospital incinerators. Any new facilities or existing facilities that are phased out and subsequently upgraded must be built to meet the new requirements and will be required to obtain certificates of approval under Section 9 (air approvals) and Part V (waste management approvals) of the EPA. The new standards for these facilities, as set out in revised Guideline A-1, will be included as part of the certificate of approval."

Other Information:
The components of this proposal which were not included in this decision were:

Mandated Destruction of PCBs (proposed amendments to O. Reg. 362). Although some PCB wastes have been destroyed, Ontario still has a substantial inventory of PCB waste in storage. This proposal would amend Regulation 362 to require that all PCBs currently in storage be destroyed at approved facilities within a fixed time period. The ministry is also proposing to make its PCB waste definition consistent with Environment Canada's PCB waste definition.

New biomedical waste definition (proposed amendments to O. Reg. 347). MOE is proposing to amend Regulation 347 to introduce a new definition for biomedical waste that will replace the existing pathological waste definition. The new definition would distinguish between the portion of the medical waste stream that requires special management and the portion that can be appropriately managed as non-hazardous waste. It would also introduce packaging, storage and handling requirements and set standards for non-incineration technologies for biomedical wastes.

ECO Comment:
One of the most immediate concerns about the handling, treatment and disposal of biomedical waste is the risk posed to the health and safety of those handling the waste or who may be exposed to it. Potential impacts on the natural environment are also important, notably air emissions of dioxins, mercury, cadmium and other contaminants from biomedical waste incinerators. With hospital incinerators scheduled to close by the end of 2003, the environmental impact of biomedical waste management should diminish significantly, i.e., major sources of toxic airborne substances in urban centers will be eliminated. To assist hospitals with waste disposal issues arising from the hospital incinerator phase-out, MOE released two guidelines.

The disinfection techniques outlined in MOE's Guideline C-17 should provide environmental benefits when used to replace disposal through hospital incinerators. If new incinerators are built or existing units upgraded to manage the waste stream, then a certain level of impact to Ontario's air quality from biomedical waste incineration will persist. Since the regulatory system for biomedical waste management is still under development in the winter of 2003, it is somewhat difficult to forecast the precise effect, and any drawbacks, from these changes. The ECO is aware of upgrade proposals for facilities using non-incineration technology, but is not aware of any biomedical waste incinerator proposals in winter 2003. Until the actual replacement disposal approaches become evident (i.e., new incinerators, export or non-incinerator technology), the precise benefits and potential concerns will not be clearly known. However, the ECO believes the following cautions and concerns apply.

The ECO suggests that enhanced education, inspection and compliance efforts should accompany the new biomedical waste management system. Education on source separation and pollution prevention would greatly strengthen the implementation of the new regulation and guidelines. Based on the complexity of disinfection processes and treatment techniques, as detailed by commenters, enhanced inspection and compliance efforts are needed as well.

The ECO has process concerns about this decision, including how comments were addressed in this decision and how MOE made decisions on components of the proposal. Furthermore, MOE did not undertake an SEV consideration dedicated to this decision and did not include in its regulatory impact statement, the analysis, as defined in the *EBR*, that an RIS is to include. Together, these weaknesses made the decision-making process and outcome very difficult to follow, and may have led to feelings amongst commenters of being shut out of the process. Comments which were substantial in nature but remained unaddressed by MOE included: the need to advance waste separation, segregation of problem wastes like mercury, and pollution prevention; clarifying the use of the terms sterilization and disinfection; and the use of two inactivation standards based on technology type, one for chemical methods and one for the remaining methods. These and other issues are substantively related to the proposal as posted. MOE should have done a better job explaining why these were not relevant to the decision.

The ECO notes that many commenters appropriately viewed the original proposal posting as a package and many commented on that basis, i.e., making links to and between the various proposal components. MOE did not explain how or when it would consider comments on components not part of this decision.

The fact that MOE did not make a decision on the biomedical waste definition complicates the implementation of Guideline C-17. This is because following the method in Guideline C-17 could conflict with Regulation 347 until C-4, Management of Biomedical Waste, and its accompanying regulation become law. Guideline C-4 proposes that biomedical waste, treated according to this guideline, can be sent to landfill, but it does not specify a hazardous waste landfill. Until O. Reg. 347 is amended this practice would violate the waste-derived rule of O. Reg. 347 which indicates that hazardous waste which has been treated or wastes derived from hazardous wastes must still be treated as hazardous waste (among other things, this prevents generators from partially treating hazardous waste or diluting it to bring it below contaminant limits so that it can be sent to a municipal landfill instead of a hazardous waste facility). As it stands in early 2003, biomedical waste treated according to Guideline C-17 must still be registered and managed as hazardous waste.

Despite process weaknesses, the outcome of this decision should be positive. Ontario's outdated hospital incinerators, which have been significant sources of mercury and dioxin emissions, will have to shut down by the end of 2003. So far it is not clear what proportion of Ontario's hospital-generated biomedical waste will be treated by the technologies outlined in the new guidelines, and what proportion might be exported to other jurisdictions. The ECO will continue to monitor developments in this area including how MOE treats those components of the proposal which remain undecided.

Review of Posted Decision:
Fill Quality Guidelines for Lakefilling in Ontario

Decision Information:

Registry Number: PA01E0004	Comment Period: 90 days
Proposal Posted: January 10, 2001	Number of Comments: 2
Decision Posted: March 24, 2003	Policy Implemented: Unknown

Description:
Lakefilling is the practice of creating new land by placing rubble, rock or loose earth in shoreline areas. Most of the large lakefills for the purpose of land creation in Ontario have been centred in the western basin of Lake Ontario, and in particular the area adjacent to the Toronto waterfront. For example, the Eastern Headland or "Leslie Street Spit" is the largest lakefill structure in Lake Ontario. Another large lakefill exists on Lake Erie at the Stelco Pier in Nanticoke. Lakefilling projects include the creation of land for recreational uses, such as parks and marinas; for wildlife preserves; and for shoreline erosion and flood protection.

There are concerns over the environmental implications of lakefilling practices, particularly of older existing sites which pre-date any interim guidelines. In particular, the quality of the material used in lakefills has come into question in recent years. Monitoring activities, according to MOE, have indicated that material with the "potential to impair water and sediment quality has entered lakefills."

Prior to 1992, fill placed directly into water was subject to the requirements of Ontario's Open Water Disposal Guidelines for sediment. According to MOE, these guidelines were developed to determine whether or not dredged material was suitable for disposal in open water, but were later used to evaluate potential fill. In 1992 the Fill Quality Guidelines for Lakefilling in Ontario (Interim Lakefill Guidelines) were released for use on an interim basis while MOE completed work on related soils guidelines. These Interim Lakefilling Guidelines replaced the Open Water Disposal Guidelines. In 1997, MOE released a policy document titled the Guideline for Use at Contaminated Sites in Ontario, which regulates the placement of soils and fill materials. The release of this policy document meant that the Interim Lakefill Guidelines needed to be revised because the latter relies on the former to determine acceptable quality of fill placed within a lakefill structure.

The revised Lakefill Guidelines have been developed to protect the aquatic environment from the loss of fill and associated contaminants during lakefilling. The guidelines were developed as a means of evaluating the suitability of fill material for lakefilling, in a manner which protects water and sediment quality. The Lakefill Guidelines apply to all new and ongoing lakefill projects including:

- shoreline stabilization projects;
- construction of piers, groynes, docks and causeways;
- construction of breakwaters and Confined Disposal Facility (CDF) perimeter walls/structures used to dispose of dredged materials;
- large-scale projects for recreational purposes (e.g., Bluffers Park); and

- beach creation.

Large-scale projects subject to the *Environmental Assessment Act* would typically proceed through the EA process and the Lakefill Guidelines would be applied through conditions written into the terms and conditions of approval.

In general, the Lakefill Guidelines define two classes of "acceptable materials for lakefills." These are:
- Unconfined fill: the material used in the construction of the outer confining structure. This material is in direct contact with the open water and is subject to stringent environmental criteria to protect aquatic organisms and water quality.
- Confined fill: the material placed within the confining structure of the lakefill, that does not come into contact with open water.

The fill material must meet the environmental criteria outlined in the guidelines and is screened based on an evaluation of both physical and chemical impact. The chemical composition of potential fill material may affect water and sediment quality. The physical impacts of suspended sediment on water quality and the effects of deposited sediment on aquatic habitat are also addressed. Unconfined fill must meet the Lowest Effect Level (LEL) of the Provincial Sediment Quality Guidelines of organic parameters and either the LEL or the background level of the sediment for metals. (MOE defines the LEL as the level of contamination in the sediment at which testing shows there is no toxic effect on the majority of the sediment-dwelling organisms. Background level is the quality of the sediment before it was affected by human activity, i.e., pre-colonial). Fill must also be free of substances that could: bioaccumulate in organisms; form objectionable deposits (scum); or degrade the potential of the water for recreation or aquatic habitat. Fill that passes the Unconfined Fill criteria must also pass a Receiving Water Simulation Test. Fill that fails the tests for Unconfined Fill may qualify as Confined Fill if it meets the requirements.

Implications of the Decision:
The necessity of revising the Interim Lakefill Guidelines, which were in effect since 1992, to reflect more recent policy directives on water and sediment quality is undeniable. The public is well aware of the ability of potentially contaminated materials to impact water quality. The continued practice of creating new land by placing fill materials of various compositions in shoreline areas is environmentally, economically and politically contentious.

Environmentally, the Lakefill Guidelines were developed solely for the purpose of evaluating the suitability of fill material for lakefilling. The guidelines do not address the issue of necessity and purpose. As MOE states, "these guidelines may assist proponents and regulators in determining whether or not a proposal will have unacceptable environmental effects." However they do not provide any guidance in determining where and whether a lakefill is necessary.

Ontario's aggregate resources are a non-renewable source of highway and building construction and maintenance materials. Some demolition rubble currently being diverted to lakefilling projects could conceivably be re-used as aggregate replacement in road construction and repair especially in the Greater Toronto Area. However, the Lakefill Guidelines appear to encourage the lakefilling of demolition rubble, especially through section 4.3 Fill Quality Evaluation, wherein it is stated that "rock, clean brick and concrete rubble do not typically require testing, except where there may be a concern regarding the origin of the material." By making lakefilling such a viable option, the prospects of re-using reclaimed aggregate for other purposes becomes less attractive, and further promotes the demands for virgin aggregate. See pages 29-35 of this year's annual report report for a discussion of the possible strategies for conserving aggregates and encouraging the use of non-virgin materials in road construction.

As MOE explains in the Lakefill Guidelines, the premium land prices of lakefront properties, particularly those in the heavily populated western basin of Lake Ontario, make the creation of new land by lakefilling very attractive. Lakefills, according to MOE, provide recreational opportunities that would otherwise not exist and could not be provided through the purchase of existing shoreline properties even if the prices were affordable enough to do so.

During the public consultations on this issue in the early 1990s, commenters raised concerns that the guidelines' strict chemical parameters will reduce the availability of suitable fill material in places which most benefit from lakefilling opportunities, such as Toronto. This will result in lakefill project proponents having to find more distant sources of clean fill, which will mean higher transportation costs for the lakefill project site. Costs will also increase for the disposal of those materials that do not meet the requirements of the guidelines and which therefore need to be disposed of in some other manner. Economically, this means higher total costs for potential projects in areas where the demand for lakefilling is the greatest, but the quality of potential fill the poorest.

In 1993 the Advisory Committee for Environmental Standards (ACES) recommended that the primary consideration of the Lakefill Guidelines should be the protection of our lakes and rivers. Criteria should not be made more lenient for the purpose of making more material available for lakefilling, and if a given material is not clean, it should not be lakefilled. The ECO agrees with these recommendations.

Public Participation & *EBR* Process:
The proposal for the revised Lakefill Guidelines was originally posted for a 90-day comment period on the Environmental Registry in January 2001. A decision notice was not posted until March 2003. The proposal was given an adequate public comment period, but the two-year time frame in which it took for a decision to be posted appears excessive in the absence of any explanation for the delay.

Only two comments were received and re-stated within the decision notice by MOE:

- Fill quality for lakefilling should be part of a comprehensive approach to waste management and should be incorporated into Regulation 347.
- Some of the metals levels provided in the guideline (based on the Lowest Effects Levels (LELs) of the Sediment Quality Guidelines) may not be met with fill material typically available in the Toronto area, and the criteria should be adjusted upwards for some of the metals.

MOE's response to the first was that lakefill structures are not waste disposal sites, and that such lakefill areas require fill of a certain quality, which is free of debris and other garbage, therefore they do not consist of "waste". As well, MOE stated that if they were considered waste disposal areas, then "this could serve to undermine the intent of the guidelines". On the second comment, MOE responded by stating that the guidelines are flexible enough to accommodate these concerns, but cautioned that the guidelines cannot be adjusted upwards "without suitable scientific evidence to show that these levels will not result in an adverse effect on the aquatic environment."

It is unclear from the decision notice when the policy was adopted and when it comes into effect. In fact, within the description of the decision, the notice states: "The Fill Quality Guidelines for Lakefilling in Ontario was adopted by the Ministry of the Environment on [to be inserted XX]". The notice of decision failed to adequately inform the public of the outcome of the public consultation process. The description of the decision was far too brief. Likewise, the section on "effects of the public comments received on the decision of the ministry" did not adequately explain *how* the comments were taken into account. Rather, the decision notice only briefly re-phrased the comments and then supplied a short response to each. In effect, the notice appears to imply that the comments had no effect on the decision because they were considered to be non-applicable to the policy document. While the commenters will know that their comments were considered, they will not know the overall effect of those comments on the final version of the policy document.

SEV:

MOE did not indicate whether the ministry's SEV was considered in this decision. The ECO is awaiting this information from MOE.

Other Information:

MOE indicated that the Advisory Committee on Environmental Standards (ACES) conducted a comprehensive public consultation in 1993 subsequent to the release of the Interim Lakefill Guidelines. At that point in time there was general support for the guidelines as most of those who participated in the consultation process believed the Interim Lakefill Guidelines were a marked improvement over the Open Water Disposal Guidelines. Based on comments received from various stakeholder groups and individuals, ACES presented MOE with six general recommendations:

- Proceed with the implementation of the *Lakefilling Guidelines*, taking into account the provisos contained in the following recommendations.
- Incorporate biological effects-based criteria into the *Lakefilling Guidelines* as they develop, in order to complement the current chemical criteria, thereby maximizing the protection of lakes and other surface waters. The *Lakefilling Guidelines* should also address the compatibility of the chemical composition and other geochemical and biogeochemical characteristics of the fill material with those of the receiving body. If potential fill material fails on the basis of chemical or effects-based criteria, it should not be used; clean fill should be obtained from other sources, or lakefilling should not be done.

- Review detailed submissions by the public referring to analytical methodology and encourage laboratories to take steps towards the institution of formal quality management practices.
- Monitor and assess the economic implications of the *Lakefilling Guidelines* on an ongoing basis.
- Implement and further develop the stated criteria for materials used to retain Confined Lakefill.
- Provide an interim publication that outlines the lakefilling approval procedures, as well as listing other jurisdictional mandates that require approval, until such time as the provincial lakefill policy is complete.

The revised Lakefill Guidelines appear to have taken these recommendations into account.

Within the description of the Guidelines, MOE reiterated that the new Lakefill Guidelines incorporated provisions from the Provincial Sediment Quality Guidelines, the Provincial Water Quality Objectives, and the Guideline for Use at Contaminated Sites in Ontario.

ECO Comment:
New guidelines for evaluating the quality of fill permitted for use in lakefilling structures are indeed necessary, especially in light of more stringent policy directions for water and sediment quality protection. However, there are also larger questions that have yet to be resolved as part of a policy discussion which, the ECO suggests, deserves public involvement. A key question is, to what extent should the ministry be supporting or promoting the practice of lakefilling? As MOE points out, most lakefilling in Ontario has been concentrated along Toronto's waterfront. In this area of Lake Ontario, surface water quality is already significantly degraded. Proponents of lakefilling include the construction industry in the Greater Toronto Area, which views lakefilling as an inexpensive means of disposing of large quantities of waste excavation material and rubble. Other proponents also include public agencies responsible for providing and expanding public recreational opportunities along Toronto's waterfront. These social and economic benefits of lakefilling need to be considered and weighed against the potential degradation of water and sediment quality that may be associated with such projects. Such a policy discussion should also consider the possibility that excavation rubble could be put to an environmentally less damaging use as aggregate replacement for road construction. This in turn might help to reduce the pressures to extract ever-increasing quantities of virgin aggregates in southern Ontario. The new Guidelines also do not address the potential cumulative effects of multiple small lakefilling projects on a single water source.

MOE's handling of the *EBR* requirements in relation to this policy proposal and decision could have been improved. The ministry did provide an appropriate comment period and access to supporting information. However, the proposal for this policy was posted on the Environmental Registry in January 2001 and no decision was posted until March 2003. No explanation for the delay was provided and the notice of decision did not provide a clear explanation of either the decision itself nor of the effect the public comments received had on the ministry's decision. MOE also provided no indication that its SEV was considered in its decision. (The ECO is still waiting to receive comments, SEV consideration and confirmation from MOE of implementation date of the policy).

MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

Review of Posted Decision:
Building Code Statute Law Amendment Act (Bill 124)

Decision Information:

Registry Number: AF01E0004	Comment Period: 30 days
Proposal Posted: November 2, 2001	Number of Comments: 0
Decision Posted: August 9, 2002	Comes into Force: some sections on September 1, 2003, others on July 1, 2003

Description:
In November 2001, the Ministry of Municipal Affairs and Housing (MAH) introduced Bill 124, the *Building Code Statute Law Amendment Act* (*BCSLAA*) to enact measures to improve public safety, enforce the Ontario Building Code (OBC) more efficiently, and make the construction sector more accountable. The *BCSLAA*, which was passed in June 2002, amended the *Building Code Act* (*BCA*) and the *Planning Act*. Many of the amendments came into force on September 1, 2003; others will come into force on July 1, 2005. The *BCSLAA* makes a number of amendments, some of which are described in this review.

The *BCSLAA* provides that the OBC, which is found in O. Reg. 403/97 under the *BCA*, can be enforced by new entities called registered code agencies (RCAs). The Act defines a principal authority as the Crown, a municipal council, or in some circumstances, a county, board of health, planning board or conservation authority. A principal authority may appoint a RCA to perform specified functions in connection with the construction of any building or class of buildings. A RCA may be any person or entity that has the qualifications and meets the requirements set out in the OBC. The role of a RCA includes reviewing plans, issuing certificates and inspecting construction to enforce the *BCA* and the OBC.

In addition, a principal authority may authorize certain persons entitled to apply for building permits to appoint a RCA to perform all functions related to construction of the applicant's building. Such functions include ensuring designs and materials comply with the OBC, issuing certificates and inspecting building construction. However, permit applicants may not appoint a RCA where a principal authority already has appointed a RCA, or an inspector has begun to perform any function related to the construction.

Under the *BCSLAA*, a principal authority must establish and enforce a code of conduct for its chief building official and inspectors. One of the purposes of this code is to promote appropriate standards of behaviour and enforcement actions.

The *BCSLAA* consolidates provisions that were already in the *BCA* relating to the enforcement of requirements for plumbing and sewage systems, and to the inspection of unsafe buildings. County councils and municipal councils may make agreements for the enforcement of the *BCA* and the OBC in relation to plumbing and sewage systems, and appoint plumbing inspectors and sewage system inspectors.

The Act also gives the Minister of Municipal Affairs and Housing the power to issue written interpretations of any provision of the OBC which will be binding on anyone who is exercising a power or performing a duty under, or subject to, the *BCA*.

Implications of the Decision:
Prior to the amendments in the *BCSLAA*, principal authorities enforced the *BCA* and the OBC. Each principal authority had a chief building official and inspectors with powers and duties under the Act and the OBC. These amendments introduce the possibility of private agencies, reporting either to principal authorities or builders, being given responsibility for inspection and enforcement of the *BCA* and the OBC. This may raise issues of liability and in the case of those RCAs employed by builders, a perceived or actual conflict of interest.

Other parts of the *BCSLAA* merely consolidate provisions that were already in the *BCA*, as with the requirements for plumbing and sewage systems, and unsafe buildings.

The Minister of Municipal Affairs and Housing's new power to issue written binding interpretations of the OBC should ensure more predictable and consistent application of the code.

It should be noted that the *BCSLAA* amended the wording of s. 29(1)(c), which is prescribed as a Class I instrument under O. Reg. 681/94, the *EBR* instrument classification regulation to the extent that a minister's ruling relates to the construction, demolition, maintenance or operation of sewage systems. The prior wording referred to a minister's ruling "approving the use of a material, system or building design in a manner consistent with a decision of the Building Code Commission relating to the material, system or building design." The *BCSLAA* has amended it to read: "approving the use of alternative materials, systems and building designs which, in the opinion of the Minister will achieve the level of performance required by the building code." It is expected that this will provide greater flexibility in the construction, maintenance and operation of sewage systems.

Public Participation & *EBR* Process:
In April 2000, the Ontario government established the Building Regulatory Reform Advisory Group (BRRAG) to develop recommendations to address longstanding stakeholder concerns with the current regulatory framework. Over a four-month period, BRRAG set up three working groups and conducted seven regional stakeholder sessions.

BRRAG made its recommendations in a July 2000 report to the Minister of Municipal Affairs and Housing entitled *Knowledge, Accountability, Streamlining: Cornerstones for a New Building Regulatory System in Ontario*. There was consensus regarding the need to: improve technical competency of key building practitioners; reduce unnecessary delays and red tape in the approvals process; and ensure that all key players are accountable for the roles they perform and the work they do in the system.

This report, along with further consultations, laid the foundation for the *BCSLAA*. Stakeholder participants, including builders, designers, municipal officials and consumers, contributed input on specific implementation issues associated with building regulatory reforms.

In November 2001, MAH posted notice of the proposed amendments to the Act on the Environmental Registry. MAH provided the public with a 30-day comment period, but no comments were received with reference to the Registry notice.

However, a number of stakeholder groups provided extensive comments to MAH with respect to the *BCSLAA*. Generally, they accepted the creation of RCAs to the extent that they are appointed and managed by municipalities, and provide municipalities with added flexibility. However, groups opposed the provision allowing applicants, or builders, to appoint their own RCAs, fearing that this will subject municipalities to undue influence from applicants, expose municipalities to liability where they have little control over the process, and create a potential conflict of interest where RCAs must inspect work conducted by their employers or identify possible offences. A significant concern was the effect of these arrangements on public safety. Groups stressed that RCAs must be accountable to local government and share in potential liability.

Debates on this bill in the legislature raised concerns about the further privatization of government services and responsibilities, such as inspection and enforcement of public safety laws, due to the implementation of RCAs.

SEV:
The ECO has pointed out previously that MAH's SEV, rather than focusing on meeting the purposes of the *EBR*, focuses on restructuring, streamlining, and assisting municipalities to be efficient. The ministry considers its SEV as part of a checklist when deciding if a proposal is one that should be placed on the Environmental Registry. However, as stated in the ECO's 2001/2002 review of the *Municipal Act* (in the annual report supplement at pages 107-113), MAH should meaningfully consider its SEV when making the ultimate decision on a proposal, in keeping with the ministry's obligations under the *EBR*.

Documentation provided by MAH in relation to the *BCSLAA* submitted that the amendments supported two SEV principles: that through clarifying the role of the provincial and municipal levels of government as a means of increasing efficiency and accountability, the ministry will encourage environmentally responsible decision-making by municipal governments; and that the ministry will establish standards for health, safety and accessibility and, where appropriate, maintain cost-effective construction standards for energy and water conservation. The simple reference by MAH to these two principles does not provide any detail on how these SEV principles will be promoted.

Other Information:
On October 30, 2002, MAH posted notice of proposed amendments to the OBC – O. Reg. 403/97 (Registry #RF02E0005). These amendments pertain to designers of sewage systems, RCAs that review plans and inspect sewage systems during construction, and time frames for reviewing permit applications and undertaking inspection with respect to sewage system construction. A decision notice has not yet been posted.

On April 23, 2003, MAH posted notice of a policy proposal (Registry #PF03E0004) regarding technical changes to the next edition of the Ontario Building Code, as well as the introduction of an objective-based format for the Code. The proposed changes include new requirements for small on-site sewage systems intended to improve construction standards for new septic systems and enhance the operation and maintenance of sewage systems, to provide increased environmental protection. The public was given a period of 30 days to comment on this notice.

ECO Comment:
The ECO commends MAH for a comprehensive public consultation process on the amendment of the *BCA* and for giving the public an opportunity for notice and comment on the Registry. However, MAH should make adjustments to its process of SEV consideration when making decisions on proposals.

It is expected that the legislation will take effect in 2004. The ECO looks forward to the *BCSLAA* regulations being posted to the Registry so that Ontario residents will have the opportunity to comment on how the changes made by the Act will be implemented.

MINISTRY OF NATURAL RESOURCES

Review of Posted Decision:
Year 3 of the Double-Crested Cormorant Research and Monitoring Program and Draft Management Strategy for Double-Crested Cormorants at Presqu'ile Provincial Park

Decision Information:

Registry Number: PB02E6004	Comment Period: 45 days
Proposal Posted: February 20, 2002	Number of Comments: 1,597
Decision Posted: April 12, 2002	Decision Implemented: April 12, 2002

Description:
In February 2002, the Ministry of Natural Resources (MNR) posted a proposal on the Environmental Registry describing two ministry programs for researching, monitoring and managing double-crested cormorants (cormorants). An over-abundance of cormorants is thought by some to deplete local fish stocks, degrade water quality and odour, spread disease and parasites, and pose risks to other wildlife and rare habitats. The two MNR programs were: Year 3 of the Double-Crested Cormorant Research and Monitoring Program, and the Management Strategy for Double-Crested Cormorants at Presqu'ile Provincial Park.

Year 3 of the Double-Crested Cormorant Research and Monitoring Program
The Double-Crested Cormorant Research and Monitoring Program is a five-year program that started in May 2000 in response to concerns raised by the public and within the government regarding the potential effects of cormorants.

Cormorants are a native species of large waterbirds that inhabit the Great Lakes and large inland lakes in Ontario from April to November. Their diet varies regionally based on the availability of prey fish such as alewife, rainbow smelt, yellow perch, walleye, white suckers, pumpkinseed, sculpins, crappie, bass and sticklebacks. Cormorants nest in colonies on the ground or in trees that eventually die due to foliage loss and broken branches, or due to large amounts of guano (droppings) left at their base. In the absence of human influence, some scientists believe that cormorant populations will continue to grow until they outstrip their food supply or their habitat, or until they succumb to disease and predation.

Historical evidence indicates that cormorants have been in northwestern Ontario for hundreds of years and in the early 1900s spread into the Great Lakes area. Population levels rose until the 1950s and then declined precipitously over the next 20 years, mostly due to the toxic effects of PCBs and DDT. Then, between 1973 and 1991, cormorant populations grew over 300-fold in the Great Lakes area. Several factors have contributed to this recovery including: reduction in the release of toxic chemicals into the Great Lakes, in particular PCBs and DDT; explosive growth of their food supply when competition from predator fish such as the Lake Trout declined; and designation as a protected species in Ontario under the *Fish and Wildlife Conservation Act*, and in the United States and Mexico under the *Migratory Bird Treaty Act*.

During year 1 of the program, the impact of cormorants on vegetation was evaluated; baseline information on local fish populations was collected; the abundance and distribution of the cormorants was estimated; and various harassment techniques were tested. The study area included Lakes Ontario, Erie and Huron. During Year 2, fish communities were evaluated; cormorant nests were counted; and cormorant foraging activity was surveyed by air. Year 2 was conducted in the Presqu'ile area of eastern Lake Ontario and in the North Channel area of Lake Huron.

During year 3 of the program, which started in the spring of 2002, MNR oiled cormorant eggs at three of seven study areas on treeless islands in the North Channel/Georgian Bay area to prevent the eggs from developing and hatching. Oiling involves coating the eggs with mineral oil, which is non-toxic, edible and biodegradable. The three study areas represent 8 to 11 per cent of Ontario's cormorant nesting population. MNR plans to continue oiling in these areas in 2003 and 2004, and has advised the ECO that two new study areas will be added in 2003 within the same region.

According to MNR "experimental egg-oiling in Lake Huron is expected to lead to localized reductions in the number of cormorants in the study frames. If the reduction in fish consumption leads to a significant increase in fish biomass in the treated areas, then it can be concluded that cormorants were significantly depressing fish stocks. This would then provide a sound scientific basis upon which to consider broader management control." MNR advised the ECO that the number and distribution of cormorants were determined in the study areas in 2002, and that a complete lake survey of the 100 plus cormorant populations across Lake Huron is planned for 2003 to better understand growth rate dynamics. MNR also advised that, in 2002, fish species, size and abundance data were collected for in-shore and near-shore fish populations, and size and abundance data were collected for fish populations in water over three metres deep. The biomass of fish can then be determined. MNR also noted that results from egg-oiling may not be apparent for two to three years.

MNR also advised the ECO that the results will be published in scientific journals. In the interim, MNR will provide a summary data report to stakeholders and plans to create a web site where the public can obtain general information regarding cormorants and the program.

Management Strategy for Double-Crested Cormorants at Presqu'ile Provincial Park
Presqu'ile Provincial Park is located just south of the Town of Brighton on a peninsula that juts into Lake Ontario and includes Gull and High Bluff Islands. The park is renowned as a stop-over for migrating waterbirds and monarch butterflies and for its extensive dune ecosystem. The park's population of cormorants has increased from one nest in 1982 to 10,321 in 2001. About 3,050 of the nests are located in the western woodland of High Bluff Island. Concerns have been expressed regarding the likely impact of cormorants on the local ecosystem and on the economy of the area.

The strategy was developed as a supplement to the Presqu'ile Provincial Park Management Plan and supports the plan's direction to address cormorant impacts on specific park values. The strategy is based on an Ontario Parks assessment that the High Bluff western woodland was in "serious decline" due to cormorant activity.

The primary objective of the strategy is to protect the western woodland which is considered "significant due to the age of the trees, the uncommon species association and the rarity of mature forest on islands in Lake Ontario." Baseline data on woodland health such as tree diameter, per cent leaf loss and crown dieback were collected in 2000 and again in 2002. Reduction techniques on cormorant populations on High Bluff Island will occur over the four years 2003-2006. An annual review and evaluation will be prepared, and adjustments will be made to the strategy if necessary. Woodland health will be reassessed in 2006.

The strategy proposes to reduce cormorant numbers by destroying cormorant nests in trees by knocking them down or by spraying with water under high pressure; harassing adult cormorants to prevent their return via noise-makers, "scare-crow" and optical devices; and oiling eggs in ground nests to prevent hatching. The strategy states that this will reduce cormorant numbers and will have several environmental benefits:

- healthier forest cover for other nesting species such as the Caspian tern;
- reduced nutrient (from guano) run-off and erosion;
- reduced foraging pressure on local fish populations; and
- protection of the aesthetic value of the island.

No economic benefits are anticipated and no changes are expected to the existing land use. Control techniques will be adjusted or stopped if there is a detectable disturbance to other colonial bird species or if trees are being damaged beyond recovery.

There are no known vulnerable, threatened or endangered plant species on High Bluff Island according to MNR and the Committee on the Status of Endangered Wildlife in Canada, but there are two species of plants and four species of colonial waterbirds that are considered "rare to uncommon" or "very rare" according to MNR's Natural Heritage Information Centre. High Bluff Island has the only nesting colony of great egrets on Lake Ontario and is one of only five locations in Ontario.

Implications of the Decision:

Whether or not management of cormorant populations becomes an ongoing activity of MNR will depend on the value that Ontarians place on cormorants. As populations move into new areas due to active reduction activities or naturally when they have outgrown an area's capacity to provide suitable habitat, concerns regarding their impact on the ecological, social and economic well-being will surface in the new area.

As a migratory bird that is protected both in Canada and the United States, large-scale reduction activities taken in Ontario would impact the United States and vice-versa. However, the ECO believes that the proposed localized reductions in cormorant populations, will not significantly affect the total population in Ontario, nor would it have international impacts.

Year 3 of the Double-Crested Cormorant Research and Monitoring Program
The findings from this program are intended to assist MNR in making operational decisions regarding management of cormorants. In particular, the program is intended to confirm whether or not cormorants are negatively impacting local fish populations and will provide further information regarding the effectiveness of egg-oiling as a population reduction technique. Since this is a research program in which cormorant reduction controls are limited both in geographic range and per cent of cormorant population, it is unlikely to resolve complaints regarding cormorants.

Management Strategy for Double-Crested Cormorants at Presqu'ile Provincial Park
The success or failure of the reduction techniques described in the Management Strategy will affect the western woodland of High Bluff Island. If successful, the woodland should recover and would provide habitat for other tree-nesting birds. Failure is expected to result in the loss of the woodland and the local habitats for the great blue heron, black-crowned night-heron, great egret, Caspian tern, etc.

The Presqu'ile Strategy will provide information regarding the effectiveness of reduction techniques, and whether or not these techniques can be used without undue disturbance to other species in the area or damage to the habitat. It will also provide information regarding the rate at which the woodland recovers based on a comparison of forest health in 2006 versus 2000 and 2002.

MNR noted in the strategy that there is a possibility that reduction techniques will cause some cormorants to move to neighbouring areas, thereby exacerbating the concern regarding fish population depletion in the Brighton area.

Public Participation & *EBR* Process:
During the 45-day comment period on the proposal, MNR received 1,597 responses, including 1,505 form letters, one petition with 59 names, 75 letters from individuals and 16 letters from organizations.

Although no public meetings were held regarding the Year 3 of the Research and Monitoring Program, MNR stated on the decision notice that they have consulted with over 25 government, non-government and First Nation organizations in Canada and the United States as part of this Program. The Presqu'ile Strategy was posted on the *EBR* as a proposal, and three other forms of notification were provided; although, this information was not provided on the *EBR*. The ECO notes that the public would have been better served if MNR had identified these opportunities on the *EBR* but also notes that it does not appear to have impacted the public's participation in the review.

Over 96 per cent of the commenters indicated that they wanted more aggressive action, and the remaining commenters indicated that they were opposed to any control or wanted limited control. Included in the commenters that indicated that the proposed actions were inadequate were 841 form letters from the Ontario Federation of Anglers and Hunters (OFAH), 261 from the United Fish and Game Clubs of Manitoulin's "3-point plan," and 362 from Presqu'ile.

The OFAH expressed a concern that cormorant populations are now "166 times greater than their historic peak," that this "indicates an ecosystem that is dramatically out of balance," and that they are "very concerned regarding the impacts … on both fisheries and habitat in the Great Lakes Basin." They asserted that MNR should "begin lethal controls immediately in areas where there are obvious impacts … that MNR disclose all science regarding the experiments conducted to-date … that MNR remove special protection of cormorants under the *Fish and Wildlife Conservation Act*, treating them as a common crow."

The Municipality of Brighton stated that MNR must take immediate action since the area has suffered "serious economic effect … due to reduction in commercial and sport fishing in the area, as well as the potential for environmental damage to High Bluff Island and the beach area of Presqu'ile Provincial Park….as well … the odour from High Bluff and Gull Islands is very offensive and getting more so every year."

The Federation of Ontario Naturalists, West Humber Naturalists, Presqu'ile I.B.A. and the Presqu'ile Brighton Naturalists all expressed general support for the reduction of the cormorant population on High Bluff Island for the purpose of saving the western woodland. The Ontario Field Ornithologists and Peaceful Parks Coalition opposed any control of cormorant populations, and the Federation of Ontario Naturalists opposed any cormorant control "to enhance hunting and fishing opportunities."

Commenters, including OFAH, Animal Protection Institute (API) and the Peaceful Parks Coalition expressed concern with respect to the research being proposed. API stated that "the study will ultimately prove little or nothing….changes in species composition within spawning and foraging grounds and habitat alterations affecting all fish species, their food bases, predators, and disease vectors, not excluding alterations in nutrient loads, turbidity, and local temperatures as a function of increased shoreline and inland human endeavours, are all absent from consideration." On this point, OFAH agreed, and stated that "the experiment … has little chance of truly testing the hypothesis that cormorants are impacting fish stocks in the Georgian Bay/North Channel area."

SEV:
In a briefing note provided to the ECO, MNR stated that the Research and Monitoring Program supports its objective of ensuring the long-term health of ecosystems by determining "if the unprecedented increase in cormorant numbers is negatively affecting fish stocks, prior to considering any broader cormorant control program." With respect to the Presqu'ile Strategy, MNR stated that it meets the above objective and also objectives related to ensuring the "continuing availability of natural resources" for future generations and to "protect natural heritage and biological features of provincial significance" by proposing "to takes steps necessary to reduce the damage that cormorants are known to be causing to important forested habitats in Presqu'ile Provincial Park." The ECO agrees with MNR's assessment.

Other Information:
In May 1997, MNR posted a "Draft Report – Review of the Population Status and Management of Double-Crested Cormorants in Ontario" on the Registry. This report concluded that concerns regarding the impact of cormorants on sport and commercial fish populations appear to be unfounded since cormorants feed primarily on small non-sport and non-commercial fish. Furthermore, the presence of cormorants indicated that ecosystem health had improved. However, the report added that cormorants may have significant negative impacts on sensitive habitats and on sport fish populations in localized areas such as small bays on the Great Lakes. The report stated that cormorant population fluctuations were largely in response to human activity such as the release of PCBs and DDT into lakes, overfishing of predatory fish which allowed smaller cormorant prey fish to flourish, and the introduction of cormorant prey fish such as non-native alewife and rainbow smelt. The report concluded that wide-spread cormorant control was not needed but that local control to protect threatened species or sensitive habitats may be warranted subject to public consultation.

In its Draft Environmental Impact Statement (DEIS), the U.S. Fish & Wildlife Service has proposed a cormorant management plan that is intended to "reduce resource conflicts associated with cormorants." Currently under federal control, the U.S. issues orders and permits under the *Migratory Bird Treaty Act* to control cormorants for the purpose of protecting threatened and endangered species, and public and private property. The DEIS has recommended that depredation orders be expanded to allow state, tribal, and federal land management agencies to implement a cormorant management program, while maintaining federal oversight of cormorant populations via reporting and monitoring requirements.

ECO Comment:
Management of the cormorant populations is a complicated issue, with environmental, social and economic considerations that could have an effect on the sustainable development of Ontario's natural resources. Ecosystems develop and change over time, and not always in a manner that everyone prefers. Today cormorants are moving into areas of Ontario that they haven't inhabited within our memory. To some people, cormorants are welcome; as high-level predators, they are a sign of a healthy ecosystem capable of supporting a diverse range of species. To other people, cormorants are competitors; they consume sport and commercial fish impacting people's livelihoods and lifestyles. Still others feel that cormorants destroy natural areas that are becoming increasingly rare in southern Ontario; they kill trees and surrounding vegetation, and crowd out other birds. Balancing these diverse views often means making compromises, sometimes in favour of protecting rare habitats, other times protecting sport and commercial fisheries, and sometimes allowing ecosystems to develop and change with minimal human intervention.

The ECO believes that MNR's proposal to conduct further research into potential impacts of cormorants, as well as the effectiveness of cormorant control measures such as egg-oiling, is prudent, consistent with the precautionary principle, and based on sound science. The ECO also agrees that rare habitats such as that found at High Bluff Island should be protected.

Studies performed by the U.S. Fish and Wildlife Service on the effectiveness of egg-oiling over time suggest that MNR's research approach will not significantly reduce cormorant numbers in Ontario but can result in significant reductions in localized areas within a couple of years. The ECO notes that the proposed control program in the U.S. may result in declines in cormorant populations returning to Ontario.

The ECO believes 45 days was an adequate comment period on MNR's proposal, partly because the ministry had done previous consultation in 1997. However, the ECO is concerned that the ministry did not adequately explain why no changes were made to the research and monitoring program, despite receiving 1,219 comments requesting changes. Although many concerns were impossible to reconcile, groups both for and against controls argued that the research and monitoring program could not conclusively prove that cormorants deplete local sport and commercial fish populations. Neither the proposal nor the decision notice provided any information regarding what data would be collected and how it would be used to prove the hypothesis. The ECO believes that this information would have been helpful to the public and encourages MNR to post the information on the proposed cormorant web site.

In its final decision on the Presqu'ile Management Strategy, MNR described how the public's comments were handled. The ministry indicated that the effectiveness of various harassment techniques to control cormorants were investigated in 2000, but did not provide the results to the public. For transparency, the ECO encourages MNR to provide the public with the research results as well as the annual evaluation of the Presqu'ile Management Strategy.

Whether or not the management of cormorant populations becomes an ongoing activity for MNR will depend on the value that Ontarians place on cormorants. As cormorant populations move into new areas, the ECO expects that MNR will continue to be under pressure to balance the concerns of those who want aggressive reductions in cormorant populations and those who don't. The results from these two programs should provide MNR with additional scientific data on which to base its decisions.

Review of Posted Decision:
Revised Free Use Policy – Public Lands Directive PL 3.03.01

Decision Information:

Registry Number: PB01E6005	Comment Period: 30 days
Proposal Posted: December 10, 2001	Number of Comments: 4
Decision Posted: June 26, 2002	Decision Implemented: February 22, 2002

Description:
Under Section 27(1) of the *Public Lands Act*, no person is allowed to "deposit or cause to be deposited any material, substance or thing on public lands, whether or not the lands are covered by water or ice, except with the written consent" of the Ministry of Natural Resources (MNR). This Act prohibits anyone from placing or erecting a structure of any kind, including tents, shelters, boathouses, and ice huts, on Crown land without first obtaining written consent from MNR.

The Free Use Policy relieves the public and industry from having to obtain written consent for the permitted free uses identified in this policy. According to MNR, the policy, which was last updated in 1997, required revisions to clarify and update permitted free uses related to forestry, mining, navigation, resource harvesting, and waterfront and waterway uses. In addition, it required an update to better reflect rights associated with the exercise of aboriginal or treaty rights and to clarify the land use status of various boathouse configurations.

MNR stated in its decision notice that the revisions to this policy review were "primarily administrative" in nature. The Revised Free Use Policy indicates that the next review date is April 1, 2005.

Implications of the Decision:
This decision does not change the free uses that had already been granted. Instead, this policy provides a clearer description of permitted free uses of public lands, thereby providing more consistent application of the policy by ministry personnel and a clearer understanding of what constitutes permitted free use to the public and industry.

Public Participation & *EBR* Process:
During the 30-day comment period, four written comments were received, of which three were from the Ontario Federation of Anglers and Hunters (OFAH). A summary of the comments was included with the decision notice on the Environmental Registry along with an explanation as to how MNR had addressed them.

All commenters were generally supportive of the proposed revisions. The Ministry of Northern Development and Mines (MNDM) requested changes with respect to Crown-authorized access beyond gates and the requirement for consent for stays of over 21 days by the mining industry. One commenter representing OFAH requested that the policy include a clause regarding stewardship and acceptance of risk regarding the use of public land. According to the decision notice, all of these comments were incorporated or had already been addressed in the policy.

Two commenters representing OFAH indicated that the 21-day camping rule does not meet the needs of its members. One of the commenters suggested the following alternatives: the 21-day rule be applied to a single site with no annual cumulative limit; or that there be a 14-day rule at any intensive use camping site with no cumulative limit. MNR made no changes to the policy to reflect these comments on the basis that this policy review was "primarily administrative" in nature.

SEV:

MNR provided the ECO with a detailed briefing note describing how its Statement of Environmental Values was considered. The briefing note also stated that the revised policy balances the interests of industries and of recreational users to have free use of public land while still protecting the environment. The ECO concurs with MNR's assessment of the policy and its consistency with MNR's SEV.

Other Information:

MNR announced on its website in 2003 that the 21-day camping rule has been changed to mean 21 days at a single site or water access point per year. Campers can then camp for another 21 days at another site that is at least 100 meters away or at another water access point. MNR district managers can still restrict camping in heavily-used areas or for other reasons such as forest fire prevention.

ECO Comment:

The ECO believes that this policy change will clarify appropriate free use for ministry personnel, industry and the public. This proposal was an appropriate use of the Environmental Registry. Although there is little or no direct environmental impact, this notice provides a public service of communicating ministry policies.

Review of Posted Decision:
Proposal to Amend O. Reg. 667/98 (Trapping Regulation) made under the *Fish and Wildlife Conservation Act*: Prohibiting the Use of Conventional Steel-jawed Leghold Traps on Land for Several Species of Furbearing Mammals

Decision Information:

Registry Number: RB01E6002	Comment Period: 30 days
Proposal Posted: April 4, 2001	Number of Comments: 16
Decision Posted: August 12, 2002	Decision Implemented: August 31, 2001

Description:
This change to the regulation governing trapping under the *Fish and Wildlife Conservation Act* brings Ontario into compliance with the Agreement on International Humane Trapping Standards (AIHTS). This international agreement was signed by Canada, Russia, and the European Union in June 1997.

The agreement stipulated that all appropriate jurisdictions represented by the signatory nations must restrict the use of leghold traps before the 2001/2002 trapping season. Under the authority of the *Constitution Act*, the provinces and territories are largely responsible for implementing international agreements signed by the federal government that deal with natural resource issues. Failure of any one jurisdiction in Canada to implement these regulatory changes may result in closure of the European fur market to which 80 per cent of Canadian wild fur production is shipped.

This regulation prohibits the use of conventional steel-jawed leghold traps for use on land for trapping lynx, bobcat, wolf and coyote. Existing regulations already prohibit the use of all leghold traps on land for the capture of beaver, mink, marten, fisher, raccoon, opossum, wolverine, red squirrel, weasel, badger, muskrat, and otter. This regulation will have the effect of further restricting the types of leghold traps that may be set to live-capture lynx, bobcat, wolf, and coyote. This restriction does not apply to the trapping of foxes. It also does not apply when certain techniques are used when trapping on ice or near water for beaver, otter, muskrat or mink.

Implications of the Decision:
The term "conventional steel-jawed leghold trap" was coined by the drafters of the AIHTS to identify leghold traps lacking attributes that have been shown through research to reduce or eliminate injury to the animals caught in them. Restraining traps designed to improve animal welfare through use of improvements such as padding, jaw offsets, jaw laminations, trap chain swivels, shock absorbers are permitted for use under the AIHTS, provided that they exceed the minimum threshold for humane treatment of captured animals included in the AIHTS agreement. Trap testing by the Fur Institute of Canada is ongoing to identify candidate traps and verify their humane attributes.

This regulation applies to the capture of furbearing mammals intended for the fur trade, as well as those trapped for other purposes such as protection of property or for research. The regulation is binding on all licensed trappers, farmers, and any other person authorized by MNR to possess or use leghold traps.

Public Participation & *EBR* Process:
This proposal was posted on the Registry for 30 days, with the ministry receiving 16 comments on it. MNR did not adequately describe the nature of the comments nor did the ministry detail how the comments were considered in the decision notice. Organizations related to the trapping industry composed the majority of the 13 comments that were in support of the proposal. An environmental organization commented that the changes to the regulation should apply to all wildlife, including foxes which were specifically excluded. This environmental organization, along with comments made by an additional individual, also sought to prohibit all leghold traps on the basis that no trap can truly be humane.

The Ontario Sheep Marketing Agency and the Ontario Cattleman's Association commented that the changes to the regulation should only apply to the capture of wildlife for the fur trade. These organizations assert that coyote predation is a significant concern of their members and that the conventional steel-jawed leghold trap is the primary means of trapping such predators. The Ontario Ministry of Agriculture and Food (OMAF) also opposed the changes to this regulation on the same basis. In its SEV Briefing Notes for this decision, MNR does state that it expects to work closely with OMAF and livestock organizations to develop alternative management approaches, including the possible development of an accreditation process to provide techniques and training to trappers and farmers who assist in predatory canid control.

The AIHTS agreement itself was the topic of considerable consultation between the federal Minister of Foreign Affairs and all sectors of the fur industry in Canada, including trapping organizations, aboriginal organizations, auction houses, fur dealers, and garment manufacturers. MNR states that the fur industry has been anticipating this regulation for several years.

The changes to this regulation came into effect on August 31, 2001, the date on which the regulation was filed with the Registrar of Regulations. However, the ministry did not post a decision notice on the Environmental Registry until August 12, 2002.

SEV:
MNR states that it considered its Statement of Environmental Values in the changes to this regulation. The ministry explains that, without this change to the regulation governing trapping, "the critical European market for Ontario fur is at risk and therefore the current social, economic and scientific benefits of the fur industry would be greatly diminished." The ECO concurs with MNR's assessment that the anticipated effect of the proposal on the natural environment will be neutral.

Other Information:
MNR, along with the Ontario Fur Managers Federation and Provincial Treaty Organizations, monitor fur harvest trends through the mandatory Season-End Mandatory Harvest Report. The ministry states that the continued use of this system will permit monitoring and assessment of any changes that may arise, either as a result of the revision of this regulation or other factors. If necessary, MNR asserts that the sustainability of wildlife may be ensured by the adjustment of specific harvest quotas, open seasons, or restriction of the number of licences that are granted.

It is possible that some trappers will incur costs in order to re-tool with traps that are approved for use under the AIHTS. However, MNR believes that the low overall level of use of leghold traps in Ontario suggests that this cost will not result in significant numbers of trappers abandoning the occupation.

ECO Comment:
The ECO commends MNR's compliance with the AIHTS. As a result of the changes made by MNR to this regulation governing trapping, the Province of Ontario fulfilled its responsibilities under this international agreement signed by the Government of Canada, despite the objections of OMAF. However, the ECO does encourage MNR to work with OMAF and livestock organizations to develop alternative management approaches to minimize possible livestock depredation.

MNR took almost a year to post the decision notice on the Registry after it had implemented this proposal. The ECO believes that such delays are excessive and may reduce the value of the Registry as an up-to-date source of information on decision-making. In turn, this delay may serve to discourage the use of the Registry by the public and stakeholders.

Review of Posted Decision:
Heritage Hunting and Fishing Act, 2002 (Bill 135)

Decision Information:

Registry Number: AB01E6001	Comment Period: 30 days
Proposal Posted: May 10, 2001	Number of Comments: 6,335
Decision Posted: September 11, 2002	Came into Force: June 27, 2002

Description:
In October 2001, the Minister of Natural Resources (MNR) tabled a bill in the Legislature to legally recognize Ontario's recreational hunting and fishing heritage. Based on the government's Blueprint commitment of 1999 to enact such legislation, this statute now affirms that Ontarians have "a right to hunt and fish in accordance with the law." The *Heritage Hunting and Fishing Act* (*HHFA*) received Royal Assent in June 2002.

This statute also reaffirms an important advisory committee, established in 1995 under the authority of the *Ministry of Natural Resources Act.* The Fish and Wildlife Advisory Board, now renamed the Fish and Wildlife Heritage Commission, provides advice to the minister on administering and allocating the Special Purpose Account (SPA). The SPA was created under the *Savings and Restructuring Act*, a controversial and lengthy omnibus bill passed in 1996, that amended the *Game and Fish Act* to create a special account which pays for activities related to fish and wildlife management. Revenues going into this account are generated from licences and royalties collected by MNR, totalling more than $50 million annually as of 2000.

In 1997, MNR continued and transferred the authority of the Fish and Wildlife Advisory Board from the old *Game and Fish Act* to the new *Fish and Wildlife Conservation Act* (*FWCA*), which was given Royal Assent in 1999. The Fish and Wildlife Advisory Board was composed of members of the hunting and fishing community. The *FWCA* requires that the minister report annually to the Lieutenant Governor in Council and the Legislative Assembly on financial affairs of the SPA and provide a summary of the advice received from the advisory committee. The *HHFA* requires the continuation of this same annual reporting.

The *HHFA* confirms the importance of this advisory body and has renamed the Fish and Wildlife Advisory Board as the Fish and Wildlife Heritage Commission. Arguably, its most important role will continue to be providing advice to the minister and MNR staff on how to the spend from the SPA. MNR states that the commission will be "an advocate for recreational hunting and fishing by promoting outreach programs for youth, tourism opportunities and greater participation in fish and wildlife conservation programs." However, the commission may also make recommendations to the minister on any matter.

Public Participation & *EBR* Process:
This proposal was posted on the Registry for 30 days, receiving 6,335 comments before the deadline of the consultation period. MNR was provided with comments from 55 different organizations. MNR states that it received over 24,000 comments in total, including those

received after the deadline. This fact suggests that MNR should have posted the proposal notice for a longer comment period on the Environmental Registry due to the large public interest.

Public comment was strongly divided as to the merits of this statute. Several organizations led letter-writing and media campaigns, as was done by the Ontario Federation of Anglers and Hunters. The majority of commenters supported the proposal to legislate the right to hunt and fish, including the establishment of a Fish and Wildlife Heritage Commission. Although trapping organizations were supportive of this proposal, they were concerned with the ministry's lack of recognition of trapping as a heritage activity and its omission from the statute.

Non-supporters of the proposal were concerned about the need for such a statute, the composition and responsibilities of the commission, the promotion of hunting by youths, the implications of this statute with regard to hunting in provincial parks, and its affect on aboriginal rights. Several organizations were also concerned that sport-hunting associations are awarded disproportionate consideration by MNR and that the ministry prioritizes game species management at the expense of other species.

The minister's parliamentary assistant held consultations in October 2002 in Thunder Bay, Timmins, and Sutton. MNR states that all 31 individuals present at these consultations were very supportive of the proposal. One organization stated in its letter commenting on the Registry proposal that MNR should have conducted more public consultations with a broader range of stakeholders.

SEV:

MNR states that it considered its Statement of Environmental Values in the development of this statute. MNR states that the government "recognizes the important cultural, social and economic benefits of recreational hunting and fishing in the province, and the contributions made by hunters and anglers to conservation and habitat restoration and wants to ensure that the best traditions of recreational hunting and fishing are fostered."

MNR's SEV consideration did not seem very carefully thought out or balanced. The ministry cites almost its entire SEV, with minimal explanation. For example, MNR's cites the following section of its SEV as the desired outcomes of actions:

- healthy populations and communities of terrestrial and aquatic life will be safe-guarded over geographical area and time;
- the integrity of natural processes and the inherent productivity of the land and water base will be protected;
- renewable resources will be available on a continuing, long term basis;
- the variety of life - biological diversity - will be conserved.

In relation to this section of its SEV, MNR states that "the proposal will assist in ensuring the continuation of positive benefits to the people of Ontario." The ECO believes that MNR should have provided a better explanation as to how these aspects of its SEV are related to this statute.

In other parts of its SEV consideration, MNR cites sections of its SEV of direct relevance and then states that they are "not applicable." For example, MNR states the "enhanced understanding of the principles and practices of sustainable development both by the public and within MNR, will lead to more informed decision-making, and should foster public acceptance for shared responsibility in achieving sustainable development" is not applicable to this act. As this statute gives responsibilities to a commission entirely composed of public members, the aforementioned section of MNR's SEV is directly relevant to this statute.

MNR also states that this statute supports the purposes of the *Environmental Bill of Rights*, specifically ss. 2(1) and 2(2). The ECO believes that MNR should have provided a detailed explanation as to how this statute is relevant to these sections of the *EBR*.

Other Information:
This legislation would appear to be intended to help reassure hunting and fishing groups in Ontario, who have been concerned about being overshadowed by other outdoor interest groups. Based on 1996 data, approximately 3.5 per cent of Ontarians participate in hunting, generating more than $200 million in direct and indirect expenditures in the province. Approximately 17.2 per cent of Ontarians participate in recreational fishing, generating $762 million in direct and indirect expenditures in the province. By way of comparison, 43.4 per cent of Ontarians participate in outdoor activities in natural areas, generating $2.8 billion in direct and indirect expenditures in the province.

In November 2002, a similar piece of legislation passed third reading in the Province of British Columbia. Bill M204, the *Hunting and Fishing Heritage Act*, contains a single section which states that "A person has the right to hunt and fish in accordance with the law." Unlike Ontario's Act, it does not create a commission.

ECO Comment:
This statute does not expand an individual's powers to hunt and fish in the province as Ontarians have always been required to conduct such activities in accordance with the law. The Court of Appeal for Ontario has also ruled that the *Canadian Charter of Rights and Freedoms* creates no constitutionally protected right to hunt. MNR asserts that this statute will have no impact on Aboriginal rights and treaties.

The ECO believes that MNR should encourage balanced representation from different stakeholder groups in the composition of the Fish and Wildlife Heritage Commission. The previous advisory board was composed entirely of members from the hunting and fishing communities, to the exclusion of other interest groups that participate in wildlife-related activities. Participation by stakeholders who pursue other forms of recreation would give the commission greater credibility.

The ECO encourages MNR to post the ministry's annual report on the financial affairs of the SPA and the activities of the Fish and Wildlife Heritage Commission on the Environmental Registry as an information notice. MNR would be ensuring the transparency and accountability to the public of the advisory committee and the expenditures of the SPA.

The ECO believes that MNR did not provide a sufficient period of time for public comment. The proposal notice did receive 6,335 comments during the 30-day comments period. However, almost 18,000 comments were received by the ministry after the deadline. Due to the fact that there was such great public interest, MNR should have posted the proposal notice for a longer comment period.

The ECO is concerned with the manner in which MNR considered its SEV in the development of this legislation. It is MNR's responsibility to take every reasonable step to ensure that its SEV is considered whenever decisions that might significantly affect the environment are made in the ministry. The ministry's consideration of its SEV must be adequately explained to be of any practical use by the public.

Review of Posted Decision:
The Ecological Land Acquisition Program

Decision Information:

Registry Number: PB02E6013	Comment Period: 31 days
Proposal Posted: August 16, 2002	Number of Comments: 40
Decision Posted: September 25, 2002	

Description:
As a result of this decision, the Ecological Land Acquisition Program (ELAP) has become the primary program through which the Ministry of Natural Resources funds the acquisition of natural spaces in Ontario for conservation purposes. Formerly, MNR operated several programs with different objectives, the most notable of which was the Natural Areas Protection Program (see table, next page). These programs have been combined into one program (ELAP) with a budget of $10 million for a two-year period (2002/2003 to 2003/2004). ELAP is described as a partnership-oriented program – participants such as conservation authorities will be expected to match funding received from MNR through the program but are responsible for any subsequent property management, maintenance and costs.

Implications of the Decision:
The most significant implication of this decision is that the total value of funding dedicated to land acquisition is small compared to the urgent demands that exist. Many sites exist across the province, both large and small. Those in southern Ontario, where the percentage of protected space is the lowest in the province, are often costliest because of the value of privately held real estate. They are also often most threatened by development. Some examples of properties which have been acquired or are the subject of efforts to acquire for conservation purposes are included in the table below.

Property Name	Brief Description, Location	Area	Approximate Value
Marcy's Woods	Carolinian Forest remnant on the shores of Lake Erie. North America's last remaining stand of old growth black maple.	115 ha	$ 2.85 million
Alfred's Bog	Southern Ontario's largest bog and habitat for rare plants and animals. Located in eastern Ontario, 70 km east of Ottawa.	1200 ha	$ 2.5 million
Delphi Point annex	Shoreline property on Georgian Bay near Delphi Point (an important fossil zone) and the Georgian Trail	3.8 ha	$ 0.9 million

These examples demonstrate that most of ELAP's current yearly budget (on a pro-rated basis) could be consumed by the acquisition of several expensive properties. Since ELAP funding is provided on a matching basis, the program can effectively finance approximately $10 million in acquisitions. The ability of the program to extend its purchasing power is contingent on a nongovernmental organization being able to raise funds to finance half the purchase value. In some locations this has proven difficult. It should also be noted that most of the sites being acquired in southern Ontario are of a size comparable to or smaller than a family farm and would not compare, for example, to the scale of most provincial parks. This would suggest that greater funding would be required in order for ELAP to create any major new ecological reserves in southern Ontario, or to amass enough property to connect fragmented ecosystems across southern Ontario.

The likely geographic and ecologic outcomes of the ELAP decision are difficult to predict with accuracy as the guidelines to govern this program were written in a very flexible, open-ended manner. For example, ELAP's precise geographic coverage, boundaries and priorities are not specified. The program seems likely to continue to have a southern Ontario focus (where more land is held privately, as opposed to by the Crown, than anywhere else in the province). However, many regions could qualify as ELAP's goal is to:

"…enhance public ownership and stewardship of natural areas across Ontario where acquisition priorities have been established within the context of an approved plan (e.g., Niagara Escarpment Plan), an approved land acquisition strategy (e.g., Rouge Lynde Marsh) or an acquisition agreement (e.g., with Nature Conservancy of Canada; Eastern Habitat Joint Venture)."

Under this broad definition, seemingly any property within an approved plan, strategy or agreement could qualify. Some conservation groups fear that if ELAP's limited program funding is disbursed more widely than its predecessor programs, then this expansion could be detrimental to the objectives and locations of those former programs. For example, the Coalition on the Niagara Escarpment (CONE) estimated that it could take 100 years to complete the conservation goals for the escarpment at the new rate that MNR will be providing funding. Previously, the NAPP program was principally focused on the Niagara Escarpment; CONE called for a return to dedicated funding for this area.

MNR should be able to reduce administrative overlap and inefficiency through the amalgamation of its pre-existing land acquisitions into a single program. However, reductions in accountability and transparency of decision-making may also result because, so far, there are fewer clear objectives and criteria in the new program guidelines than with the former four programs.

Finally, because ELAP resulted in a slight decrease ($0.8-1.1 million less) in the overall funding (from a high of $6.1 million/year to the current $5 million/year) for provincial land acquisition, natural heritage protection goals in southern Ontario may be missed or will take longer to achieve.

The Programs which ELAP Replaced

Natural Areas Protection Program (NAPP). NAPP was a program launched in April 1998 by MNR, but which grew out of the previously existing Niagara Escarpment Land Acquisition and Stewardship Program (NELASP). Lands near, or on, the Niagara Escarpment, and near or adjoining Rouge Park and Lynde Marsh (both just east of the City of Toronto) were the focus of this program. MNR entered into agreements with partner organizations, e.g., conservation authorities, largely on a matched funding basis to disperse NAPP's land acquisition funds of $5 million annually (over a four-year period). When NAPP replaced NELASP, MNR expanded its focus to include lands of southern Ontario beyond the Niagara Escarpment under direction from Cabinet.

Community Conservancy Program (CCP). The goal of CCP was to secure lands to a total value of $6 million, of which at least half the lands were to be provincially significant in nature. Begun in 1999, the program operated until March 2002 under a Memorandum of Understanding between MNR and the Nature Conservancy of Canada (NCC). In pursuit of the program's goal, MNR provided NCC with $0.3 million annually for land securement which is expected to be matched on a 6:1 basis. The funds were employed by NCC primarily to enter into conservation easement agreements. A small amount of this funding was also directed to a network of local land trusts.

Eastern Habitat Joint Venture (EHJV). EHJV is one of 14 regional partnerships of the North American Waterfowl Management Plan, an agreement between Mexico, the United States and Canada to conserve, restore and enhance wetlands and to restore waterfowl populations to 1970s levels. MNR and the Ontario Ministry of Agriculture, Food and Rural Affairs have been partners in this program. To secure and enhance habitat through this program, MNR transferred $0.25–0.5 million annually for at least 15 years to the nongovernmental organizations of the partnership who used their own, plus federal contributions as matching funds to obtain U.S. funding.

Ontario Parks Legacy 2000 (OPL 2000). In 1996, Ontario Parks, the agency within MNR which manages Ontario's network of provincial parks contracted the Nature Conservancy of Canada (NCC) through the five-year OPL 2000 program to acquire ecologically significant areas "to help complete a system of parks and other protected areas in Ontario in celebration of the new Millennium." Funding of $1.5 million for this program came from public land sales through MNR's Strategic Lands Initiative. Most of the sites selected, which will be classed Provincial Nature Reserve, were from southern Ontario. Ontario Parks will be responsible for the protection and management of all sites however, under a special custodian agreement, NCC may retain title of some properties.

Public Participation & *EBR* Process:
Most of the comments (30 of 40) were received from either a conservation authority or a land trust organization called the Escarpment Biosphere Conservancy (EBC). The principal concern from the conservation authorities was the continuance of a capital spending component in the new program. Capital spending includes spending on physical items other than land, needed in order to maintain a property (e.g., bridges, fences, signs, trail markers, etc.). MNR reinstated the capital component of the previous NAPP program and included it in ELAP.

Numerous commenters took issue with the style and content of ELAP's guideline (the "Framework"), describing it as vague, broad, without enough definition to understand and in need of clear criteria to ensure effective and fair distribution of benefits. MNR promised to improve the clarity of the guideline to address the concern that it was vague, but proposed no timelines.

The commenters affiliated with the EBC focused on several issues with the program proposal, and made several allegations about MNR's administration of land acquisition programs. For example, this group contends that MNR has shown little interest in funding its work in the past, even stating that MNR program administrators met with them and indicated that there would be no funding available for EBC from ELAP. This, despite EBC's claim to focus a large proportion of its funding on the intended conservation target and very little on administration or salaries, due in part to substantial volunteer input. EBC contends that it and groups like it can be highly effective program participants and stewards of natural environments. Further, they allege that MNR favours conservation authorities, municipalities and a few large well-established conservation organizations when it enters into land acquisition agreements. Some of EBC's activities are located on Manitoulin Island which were outside the geographic limits of the NAPP program. MNR indicated that EBC and other private land trusts are eligible to participate, if they meet the conditions of the program.

One group noted that overall land acquisition funding for the Province of Ontario has been reduced through this initiative: "It is apparent that ELAP has not enhanced the funding for natural heritage securement but has actually decreased the funding envelope in this regard by around $1 million for the programs consolidated under its umbrella." Further, they noted that some nearby U.S. states have land conservation and acquisition budgets that are vastly greater than that of Ontario's. The ministry noted that the funding level and the term of the program were set out in an announcement made by the Premier, implying that MNR has no control over these amounts.

Other notable points raised by commenters included:

- observation that participating in ELAP was desirable from an endorsement perspective – groups could offer this to other funders and the public to demonstrate credibility;
- suggestion that ELAP could set up a multi-party screening committee / system to ensure that properties were chosen in an ecologically-defensible manner; a few commenters even suggested screening criteria and membership;
- length of the program (2 years) is too short for planning purposes.

SEV:
This program's objectives mesh well with many of the goals and objectives of MNR's Statement of Environmental Values, e.g., "to protect natural heritage and biological features of provincial significance." An argument could be made that if this land acquisition work isn't done fast enough, natural heritage and ecological resources could be permanently lost to development or resource extraction, and MNR will not be able to claim that it has adequately fulfilled this objective.

Other Information:
MNR's ELAP proposal and guideline also make reference to the Ontario Forestry Accord Advisory Board's report "Room to Grow" in which policy is set to deal with the competing interests of demand for wood supply versus conservation on Crown land in northern and central Ontario. MNR should have made clear to the public the relevant connection between these two initiatives in its Registry notices or accompanying documents.

In 2000/2001, the ECO reviewed MNR's land acquisition programs and commented: that these programs, their criteria and changes to, should undergo public consultation; that MNR should provide progress reports on programs and their goals; and that sufficient resources should be allocated to ongoing monitoring and stewardship of acquisitions. MNR committed to measuring and making reports on program progress. ECO also noted in 2000/2001 that funding for land acquisition was coming from public land sales through MNR's Strategic Lands Initiative. MNR did not confirm whether this continues to be the case.

ECO Comment:
Protecting natural areas and wildlife habitats through land acquisition has the potential to be one of the most effective strategies for natural heritage protection in Ontario. The ECO appreciates that MNR amalgamated all of its pre-existing land acquisitions into a single program which could reduce administrative overlap. The ECO hopes this is MNR's first step towards developing a stronger, long-term Ecological Land Acquisition Program.

In October 2001, ECO estimated that only about two per cent of southern Ontario's land base was protected. Given southern Ontario's rich biodiversity and extreme development pressures, MNR should spell out a realistic conservation target for this region. For example, MNR set a measurable goal for protecting lands and waters in the areas covered by Lands for Life and Ontario's Living Legacy program. Given that enhancing land conservation in southern Ontario could be costly (where most land is privately held), MNR should have considered the adequacy of ELAP's overall funding level. A single acquisition, such as Marcy's Woods (115 hectares) in southern Ontario, can cost almost $3 million.

In future program development, MNR should give careful consideration to program structure. In its 2000/2001 Annual Report, the ECO suggested that a coherent, province-wide, scientifically-sound framework which explained the rationale and direction of land acquisition in Ontario would help clarify MNR policy in this area and assist the public in comprehending its goals and objectives. In comments to the ECO in 2001, MNR effectively agreed with this recommendation. The current program description "Ontario's Living Legacy Framework for the Ecological Land

Acquisition Program" includes a great deal of flexibility and is vague and thin on detail. Criteria for evaluating proposed acquisitions were not included in the framework but will be developed by MNR, though no timeframe was provided. ECO will monitor MNR's progress on this next step.

Until clear objectives, rules and criteria are set, MNR may find it difficult to strategically protect ecosystems in critical need of protection, such as remnant Carolinian forest, or threatened species habitat. This limitation exists because ELAP acquisitions are considered on a case-by-case basis as opportunities are brought forward by conservation agencies, as opposed to being guided by a set of clear objectives.

The ECO restates the need for a coherent, province-wide, scientifically sound framework to guide land acquisition in the province. This framework would also serve to guide the development of appropriate budgets for this activity. MNR should consider these points, as it embarks on future land acquisition policy-setting exercises or renews the current ELAP program, which will need to be decided by 2004 at the latest.

Review of Posted Decision:
Water Management Planning Guidelines for Waterpower

Decision Information:
Registry Number: PB01E6004
Proposal Posted: October 9, 2001
Decision Posted: October 23, 2001

Comment Period: 45 days
Number of Comments: 12

Description:
Waterpower is a key source of electricity in Ontario. In 2002, about 27 per cent of the province's electricity needs were met by water power; nuclear power accounted for per cent, fossil fuels for per cent, and other sources, e.g., wind and solar, for 2 per cent. In Northern Ontario, about 85 per cent of the electricity needs were supplied by waterpower in 2002. There are about 200 waterpower facilities in Ontario, two-thirds of which are located south of the French and Mattawa Rivers.

With the enactment of the *Energy Competition Act (ECA)* in 1998, the stage was set for the deregulation and opening of a competitive electricity market in Ontario. Prior to the enactment of the *ECA*, the Ontario government relied upon Ontario Hydro, a Crown corporation, to oversee the operation and effects of its waterpower facilities. The potential transfer of some of Ontario Hydro assets to, and the future development of new waterpower facilities by, the private sector created a need for greater accountability by the operators of the facilities.

In November 1999, a Waterpower Industry Task Force, jointly chaired by MNR and representatives from the waterpower industry, developed a set of policy and program recommendations to support a Waterpower "New Business Relationship" for consideration by the Minister of Natural Resources. Included in the report of that task force were recommendations on water management planning, waterpower site allocation and development, waterpower lease agreements, and dam safety. Acting on the Task Force recommendations, MNR has now implemented a program to require waterpower producers to develop Water Management Plans to ensure that their installations balance environmental, social and economic concerns in the management of rivers and lakes. In support of the process, the ministry has produced the comprehensive document, Water Management Planning Guidelines ("the guidelines") which is the subject of this review.

MNR states that the goal of water management planning as defined by the guidelines is to "contribute to the environmental, social and economic well being of the people of Ontario through the sustainable development of waterpower resources and to manage these resources in an ecologically sustainable way for the benefit of present and future generations."

The guidelines spell out the main goals and guiding principles that are to apply to the preparation, review, approval and implementation of Water Management Plans (WMPs):

- Attempt to maximize the net environmental, social and economic benefit to society;
- Seek to improve the ecosystem and at a minimum, arrest any on-going degradation of the ecosystem resulting from the manipulation of flows and water levels;

- Proceed with planning based on the best information available at the time of decision-making;
- Thoroughly assess options: tradeoffs among options should consider their qualitative and quantitative environmental, social and economic benefits and costs;
- Plan using a long term management process known as 'adaptive management' which strives for continuous improvement of resource management;
- Implement information from studies which follow WMP implementation in a timely manner;
- Develop plans without prejudice to the rights of Aboriginal people and treaty rights;
- Develop plans using open and transparent process and building on consensus-based decisions.

WMPs are based on the need to determine the effects of management of instream flows and levels on a river system's environmental social and ecosystem values. Producers of waterpower are responsible for writing water management plans that take into account how changes in water level and flow management may affect the river system. Water management planning aims for consensus among stakeholders. If consensus is not possible, resolution is to be pursued through a local steering committee, or via a proposed formal dispute resolution mechanism if required. A monitoring, compliance and enforcement program is proposed which provides a mechanism for the operators, public and MNR to assess the effects of the WMP implementation and adjust plans as necessary.

Issues related to water uses upstream of hydroelectric installations are usually focused on the operation of reservoirs and how water level fluctuations affect the aquatic ecosystem, shoreline erosion and recreational activities. Downstream issues generally relate to ensuring adequate minimum flows for sustaining the aquatic ecosystem and recreational activities. The scope of WMPs includes establishing existing baseline environmental, social and economic conditions with a principal focus on the management of water levels and flows, and the required operating regimes at the facilities and control structures. WMPs may range in complexity from situations involving one waterpower producer on a watershed, to watersheds involving multiple producers and control structures operated by different authorities. In the latter case, a multi-partite effort to produce a WMP will be required. In some cases water management plans may already exist, e.g. those developed by Conservation Authorities. In these cases, the guidelines indicate that consistency with existing plans should be sought.

The natural flow regime of the subject river system is used as a point of reference for determining what water flows and levels best protect and enhance the aquatic ecosystem. Components of this regime can be used as a guide for setting broad ecological targets although it is recognized that the operation of the facilities under various constraints represents an existing post-development baseline. It is intended that "at a minimum, WMPs should stop any ongoing degradation of a riverine ecosystem resulting from the management of water flows" and that the WMPs should seek to improve and where possible restore river ecosystems. The scope of WMPs also includes the relative scale of effects of waterpower operations and a consideration of other water users and the public interest in water.

The target time frame for preparing WMPs varies depending on the complexity. For simpler systems involving one waterpower producer, MNR suggests that the WMP be prepared in six months or less; for complex WMPs the time frame is given as 18 to 24 months, with suggested time frames for the various sub-phases as follows:

- Planning organization and commencement: 3-4 months
- Scoping (including data collection): 6-8 months
- Option development, evaluation and selection: 4-6 months
- Draft plan: 3-4 months
- Final plan: 2 months
- Review by MNR and the federal Department of Fisheries and Oceans (DFO): 2 months

A completed draft WMP consists of a preferred option for the management of water levels and flows for the entire river system, as well as associated operational plans for each individual waterpower facility and water control structure. Once the plan is developed it is reviewed by MNR and DFO. It is intended that once the plan is accepted and implemented, the owners of the waterpower facilities will carry out effectiveness monitoring under a compliance self-monitoring and reporting protocol vis-à-vis operational program parameters. MNR will be responsible for conducting compliance and enforcement programs. A complete plan review is mandated at the end of a five to ten year period; however, if new information comes to light, a mechanism for amending the existing WMP sooner is described in the guidelines.

The guidelines include several appendices, which will provide ancillary information or details on key areas of WMP development. These are presently in draft form and will be finalized at a later date. The appendices will include topics such as:

- Water management planning generic terms of reference
- Water management plan generic table of contents
- Public consultation requirements
- Waterpower and First Nations – our need to consult
- Generic terms of reference for Public Advisory Committee
- Issue and dispute resolution
- Aquatic ecosystem guidelines
- Socio-economics and decision-making
- Effectiveness monitoring
- Compliance and enforcement regime
- Waterpower information management strategy
- Waterpower science strategy
- Ontario's existing waterpower sites
- Other legislation and programs relevant to water management planning

MNR intends to roll out the appendices as they are completed and post information notices about them on the Registry. In October 2002, an Information Notice describing the Aquatic Ecosystem Guidelines for Water Management Planning (XB02E6001) was posted on the Registry.

Statutory Authority
The statutory authority for the minister to order the preparation of management plans was first enacted under the *Red Tape Reduction Act* (December 6, 2000). Amendments to the *Lakes and Rivers Improvement Act*, introduced under the *Reliable Energy and Consumer Protection Act* (Bill 58), expanded the minister's authority. Bill 58 received Royal Assent in June 2002, and the decision was posted on the Registry in April 2003 . The amended s. 23.1 establishes the authority for the Minister of Natural Resources to order dam owners to prepare management plans in accordance with guidelines approved by the minister. The section specifically states that the minister "may order" the owner of a dam to prepare a management plan. However the guidelines indicate that "Owners of waterpower facilities …will be ordered by the Minister, or delegate, to prepare a WMP in accordance with these guidelines". MNR also made it clear in its response to comments submitted through the *EBR* process that all facilities under exclusive jurisdiction of the province are potentially subject to this order, and that the authority extends to both existing and new hydroelectric power dams.

Implications of the Decision:
The effect of the *LRIA* amendments and Water Management Plan development under these guidelines will generally be beneficial to water resources planning in Ontario. There are more than 200 hydroelectric facilities in the province. MNR anticipates that the initial work on Water Management Plans will progress rapidly, and it has advised the ECO that in the next few years, it is expecting to post between 80 and 100 notices on WMPs on the Registry. MNR states that WMPs will provide all interested and affected parties with meaningful opportunities to:

- Identify all problems and issues requiring attention;
- Identify objectives and constraints;
- Develop and evaluate a range of options; and
- Select a preferred option .

Some First Nations representatives, interested non-governmental environmental organizations and conservation authorities have expressed concern that their resources to review and participate in the WMP process will be severely taxed. The compressed time frame specified for completion of WMPs could be problematic for planning team participants. Acquisition of data about the river system may be hindered by inadequate timeframes or sufficiency of basic hydrologic and other data.

MNR has stated in the guidelines, it is to be expected that the plans should stop any ongoing degradation of the river's ecosystem resulting from the manipulation of flows and water levels, and where possible, restore its elements. Operating plans developed as part of the WMP process should prevent extreme lowering of reservoir water levels resulting in fish kills, as described in this year's annual report on pages 128-131 for Rocky Island Lake.

Public Participation & *EBR* Process:
Prior to posting on the Registry for public comment, MNR did extensive consultation with a wide variety of interested parties, including the waterpower industry, other industrial associations, environmental groups and associations, tourism associations, recreation

associations and municipal associations. MNR also had discussions with the principal representative organizations of the First Nations in order to obtain advice regarding meaningful consultation approaches with their constituent First Nations. MNR states that it will apply the consultation approaches with Aboriginal people that have been applied to Forest Management Planning as well as the development of Land Use Strategies such as Ontario's Living Legacy.

Twelve organizations and individuals commented on the Registry proposal for the guidelines during the 45-day comment period. None of the commenters objected to the proposal; however each requested that changes be made. MNR made some substantive changes to the WPMGs to reflect these comments. These included a clarification of the distinction between the requirements of the *Environmental Assessment Act* and the requirements and scope of the Water Management Planning process. MNR states in the guidelines that all waterpower facilities under the province's jurisdiction will be required to prepare WMPs. In addition, where a conservation authority's watershed plan addresses issues that go beyond the management of flows and levels, it was clarified that existing operational agreements between the conservation authorities and the waterpower producers will be recognized and considered in developing WMPs. One of the commenters was concerned that in some cases waterpower producers are not the authority controlling the water levels and flows. MNR has clarified that where such complex operations exist on a watershed, there may be a shared lead in developing a WMP.

One commenter felt that the guidelines were not clear about how the developers of the WMP would establish the sustainable level of various activities for the river ecosystem. They also questioned how existing and future conditions would be measured and how changes brought about by management under the WMP could be determined.

MNR has stated that: "WMPs will be developed using open and transparent processes and will be built on consensus-based decisions." The WMP process will involve a steering committee, public advisory committee, and a dispute resolution mechanism. A separate consultation will be carried out with Aboriginal and First Nation communities. The WMP Guidelines provide guidance for use of the *EBR* for public consultation and comment. For complex WMPs it is considered that Information Postings will be placed on the Registry at all five report development stages, while fewer postings, perhaps one at the outset and one at the final plan stage, will be made in the case of simpler WMPs. The ECO encourages MNR to prescribe the relevant sections of the *LRIA* that authorize MNR to require WMPs. Instrument proposals for each WMP (rather than information notices) can then be posted at the initiation of the process for each watershed. The status of a WMP as a prescribed instrument under the *EBR* will ensure that the public has *EBR* related rights of appeal and applications for investigation.

SEV:
MNR provided a detailed SEV briefing note, authorized by the Director of Lands and Waters Branch, in October 2002. The ministry states that this initiative reflects the values contained in its SEV. The ministry notes that its overall goal: " To contribute to the environmental, social and economic well-being of Ontario through the sustainable development of natural resources" will be incorporated into each WMP's terms of reference.

The ministry reviewed the guidelines in the context of the eight policy principles outlined in its "Directions '90s" and "Moving Ahead" initiatives. The guidelines generally reflect the policy principles very well. In particular, the WMP goals of arresting any ongoing degradation of river ecosystems, and where possible, restoring them are also consistent with these principles.

In the SEV briefing note, MNR carefully assesses the role that WMPs will play in balancing economic, environmental and social issues and values. In its briefing note, the ministry says:

- "WMPs: should strive to maximize the net environmental, social and economic benefits derived from the management of water levels and flows"; however it later adds: "operating regimes that increase such benefits, while at the same time **do not diminish waterpower facilities' financial performance**, are preferred over those that do not." *[emphasis added]*

- "**Notwithstanding circumstances in which to generate the maximum net benefits, waterpower facilities would be required to forego a portion of their revenues**, it is not the intent of water management planning to render any existing waterpower facility uneconomic." *[emphasis added]*

These statements are not entirely consistent with one another. The ECO believes that while profit implications of requiring changes to operating plans cannot be ignored, development of management strategies should be focused first on the conservation and sustainable resource use interest. For new hydropower projects where no pre-existing financial performance baseline has been established, it is appropriate that WMPs should be developed so as to optimize the overall value of economic, social and environmental benefits to society, rather than maximizing hydroelectric potential as a first priority.

Other Information:
New hydropower generating stations, and proposed expansions of existing facilities will in the near future be subject to a new Class Environmental Assessment for Waterpower Projects. The Ontario Waterpower Association is the proponent for this Class EA. This Class EA will build on the existing electricity projects regulation (O. Reg. 116/01) and accompanying "Guide to Environmental Assessment Requirements for Electricity Projects" finalized by the Ministry of the Environment in April 2001. The guidelines indicate that the EA process is not equivalent in scope to the preparation and enforcement of a WMP. For example, *EA* applies to individual project proposals, while water management planning applies to all waterpower facilities on a river system. Waterpower facilities that have received approval under the *Environmental Assessment Act* or have been designated as subject to the *EAA* will still be subject to the requirement that a water management plan be prepared and approved.

Water management plans will not be prepared for waterpower facilities located on river or canal systems where waters are managed under international or inter-provincial control. Currently MNR is in discussion with the federal government on the potential for preparing WMPs on systems such as the Trent and Rideau Rivers where the federal government, through Parks Canada has jurisdictional control.

ECO Comment:

ECO commends MNR for developing the guidelines, and for the extensive consultation with stakeholders and the broader public during their synthesis. They should generally serve the intended purpose of maximizing the net benefit of water resources in rivers where hydroelectric facilities exist.

However, the ECO is concerned that in the development of WMPs, economic considerations may be given too high a weighting in making decisions on operational plans. Decisions in relation to alternative plans should be focussed first on conservation and sustainability of the intrinsic natural resource features of their use.

The guidelines propose that the evaluation of alternative operational plans be done against a backdrop of the current conditions at the site. At a minimum, for sites with impoundments, this means that the river below a power dam will be managed as a river ecosystem, while a portion of the river system above the dam will be operated as a lake environment. It is not clear how the effect of various alternative operating plans will be evaluated and what the ecosystem indicators to gauge these effects will be. Opportunities may be lost to 'turn back the clock' and restore ecosystem features if plans are rigidly constrained to a *status quo* operating situation.

For rivers with existing hydroelectric development, the timeframe for the first cycle of WMP submission is too compressed for adequate collection and assessment of the needed physical and biological data. The guidelines advise stakeholders that the process of adaptive management will take care of much of this concern, i.e., as information becomes available it will be factored into the next cycle of WMP development, five to ten years in the future.

The ECO is also concerned about the ability and resources of potential participants in water management planning in order for them to become meaningfully involved in the WMP development. Particularly in remote areas, the resources of NGOs may be limited and MNR should be prepared to take a more active role in representing the socio-economic and environmental concerns. Beyond local stakeholders, there may be significant input from non-governmental organizations who have broad-based interests in resource management. The ability to comment on WMPs posted as instrument notices on the Registry is very important and ensures that the voices of these organizations are heard. Therefore, to promote transparency and accountability, the ECO urges MNR to amend its Instrument Classification Regulation to prescribe WMPs at the earliest possible time.

Fossil fuel-based electricity production has come under increasing scrutiny because of concerns with greenhouse gas and air pollutant emissions. Canada's signing of the Kyoto protocol will lead to more pressure to develop renewable energy resources such as wind and waterpower. The ECO has recommended in previous reportsvc that the government set targets for the increased production of renewable energy, and implement programs to encourage the development of renewable energy in the province. Recently, following the report of the Select committee on Alternative Fuels, the government appointed a Commissioner of Alternative Energy who is charged with developing a "Renewables Portfolio Standard" for the province. As a result, wind and waterpower may well become significant energy production growth areas in Ontario. Currently, there are 8150 MW of installed capacity at hydroelectric generating plants in Ontario, and MNR estimates that there is still an unrealized potential of 2000 MW of waterpower in Ontario. Constraints on land use designation and distance from the electricity transmission grid could reduce this estimated potential substantially, however.

In view of the above, the ECO is concerned that the provincial government may choose to exploit the hydro potential of certain rivers and downplay the need to preserve these rivers in a natural, uncontrolled state. While guidelines such as those reviewed above are valuable, the broader need for overall stewardship and preservation of rivers in their natural state should not be overlooked.

Review of Posted Decision:
MNR's Community-based Land Use Planning for the Northern Boreal Initiative

Decision Information:

Registry Number: PB01E1012	Comment Period: 110 days (65 + 45)
Proposal Posted: July 13, 2001	Number of Comments: 5
Decision Posted: November 20, 2002	Decision Implemented: Unknown

Description:

The Northern Boreal Initiative (NBI) is intended to allow First Nations to take a lead role along with the Ministry of Natural Resources (MNR) in developing new forestry and other sustainable development opportunities in Ontario's far north. The NBI area is home to 11 First Nations communities, most of them inaccessible by road. The proposal posted for comment is the Community-based Land Use Planning Approach developed for the NBI.

The total potential area to be considered may be in the order of six million hectares, extending up to 150 km north of the area where commercial forestry is currently authorized in Ontario's Living Legacy (OLL) planning area. The boreal forests in the NBI area have global significance, identified by the World Resources Institute as remaining frontier forests, and by the United Nations Environment Programme as one of the world's remaining significant 'closed canopy' forests. The forests in the NBI area are dominated by black spruce and jackpine, intermixed with small lakes. Wetlands ranging from small to very large are a significant feature of this landscape.

MNR says that the NBI was established in 2000 in response to the expressed interest of several First Nations communities in developing commercial forestry opportunities. It also referred to the Ontario Forest Accord signed in 1999 at the conclusion of the OLL planning process. The Ontario Forest Accord was an agreement signed by MNR, the forest industry and a coalition of environmental groups. One of the commitments of the Forest Accord was to open up these northern lands to commercial forestry as quickly as possible, subject to the full agreement of affected First Nations communities, approval under the *Environmental Assessment Act* and regulation of parks and protected areas. This commitment was in part a trade-off for fibre losses due to the creation of parks during OLL. The impetus for the NBI thus came from both the interest of First Nations in resource development, and the government's commitment to the forest industry to open the lands to commercial forestry.

The community-based land use planning process is intended to be First Nations-led with support and input from MNR and other provincial agencies. Each First Nations community may define its own planning area and initiate planning. Although planning and decision-making will be made at the community level, some subjects such as protected areas and wildlife will need to be considered at much broader landscape scales such as MNR's ecological regions or watersheds. Unlike the Ontario's Living Legacy area, there is no broad regional land use strategy to guide community planning, so local planning needs have to be integrated with broader goals and objectives such as provincial level protected area targets. The resulting Land Use Strategies are expected to set out land use designations and allocations for protected areas, traditional use areas, commercial forestry and tourism. While the initial impetus was forestry, other resource development opportunities will also be considered.

The description of the actual planning structure and process is sparse. The document says that components common to land use planning are development of a terms of reference, assembly of background information, analysis of options, and preparation of the draft and final land use strategy. MNR asserts that the process is flexible and will be determined by each community. The first step in each First Nations' planning exercise will be notice of a terms of reference which will set out the details of the planning and consultation for the land use strategy. MNR has committed to providing consultation opportunities at set points during the development of each land use strategy through the Environmental Registry and by other means. The strategies will be approved both by the First Nations through community-determined procedures and by MNR under the *Public Lands Act*. It should be noted that a sustainable forestry licence under the *Crown Forest Sustainability Act* and a forest management plan will be required before logging can commence.

Implications of the Decision:
Land Use Plans will likely be developed for the NBI area, in preparation for allowing commercial forestry to proceed. In November 2002, MNR said that eleven First Nations communities were already working with NBI and that several may be ready to commence planning using the Community-based Land Use Planning approach, within the next six to twelve months. Although not described in the document, MNR is carrying out the land use planning for the gaps on the land base between areas chosen by the First Nations.

MNR said in its proposal notice that planning processes such as this will not, in themselves, have a significant effect on the environment. The ECO disagrees with this characterization of the proposal. The larger decision to permit forestry in the far north was made in the 1999 Forest Accord, and MNR began discussions about the NBI in 2000, but this was the first policy proposal notice on the Environmental Registry. The NBI will certainly have a significant effect on the environment. While the catalyst for the NBI planning exercise was forestry, the NBI and land use strategies may also result in increased road development, mining exploration and hydro-electric development.

The NBI area contains one of the largest intact forests in the world because forestry has not yet been allowed this far north. The environmental impacts of permitting forestry in the northern boreal forest have not yet been assessed formally, and will require either approval or exemption under the *Environmental Assessment Act* (*EAA*). Forestry will require different approaches in the northern boreal than in the south because of the physical environment, harsh climate and short growing season. In the northern boreal forest, trees tend to be slower growing, the forests are less diverse. Site conditions vary from dry to moist with a larger proportion of moist and wet conditions than further south. Forestry and road development may have significant impacts on the fragile northern boreal forest and upon sensitive and wide-ranging wildlife species such as the wolverine and woodland caribou.

The decision should also result in the creation of additional protected areas, but the criteria and mechanisms for identifying them are still being determined. The ministry has set up an NBI Protected Areas Working Group, including representatives from MNR, Ontario Parks and environmental groups. MNR has also been working to engage First Nations in this process. They are working on developing objectives and criteria for establishing protected areas. Unlike the OLL planning area, where a target was set of protecting 12 per cent of the planning area, no numerical target has been set for the NBI area. The Working Group is still working on how to integrate the protected areas planning with the community-based land use planning.

Public Participation & *EBR* Process:
MNR posted an information notice on the Registry in July 2000, inviting public comment at an early stage of the development of the NBI. MNR also held discussions with First Nations communities, members of the Ontario Forest Accord Board, interest groups and other agencies. The July 2001 policy proposal was posted with a 65-day comment period and MNR extended the comment period for another 45 days for a total of 110 days. Comments were received from the Nishnawbe Aski Nation (NAN), which represents 49 individual First Nations in northern Ontario; Keewaytinook Okimakanak, representing six First Nations; one of the First Nations; and two non-governmental organizations.

In its written comments NAN expressed serious concerns and a lack of trust of MNR's motives. NAN suggested that the NBI is a thinly veiled attempt by MNR to access resources without properly consulting all NAN First Nations and that NBI is a tool for MNR to use a few communities as a justification for resource development north of the 50th parallel. NAN commented that the level and quality of consultation cited in the NBI is not in keeping with the Consultation Policy and Procedure that NAN has developed for natural resource consultation. They also expressed concern about First Nations control, costs, revenue sharing and other issues.

In a news release during the comment period, NAN stated "we are concerned that Ontario's Northern Boreal Initiative will lead to the same environmental disruptions that our people have endured in communities south of the 50th" and "Ontario's plans to open up the northern boreal forests is occurring without any credible review of the social and environmental impacts that these changes will bring to the Aboriginal communities in this region. Thus far, Ontario's NBI is unfolding in a community-by-community fashion that does not consider the potential cumulative impacts on the fragile northern boreal forests and communities…To us, the NBI appears as yet another shallow process intended to provide a low-cost supply of fibre to the industry at the expense of NAN's people."

NAN asked MNR to host a meeting of the First Nations identified in the NBI in order to more effectively address their concerns. MNR agreed and held a two-day meeting with the First Nations to discuss the NBI in November 2001. A news release issued after the meeting said that most First Nations representatives expressed concerns and suspicions about MNR and the initiative. "The First Nations have expressed a willingness to work with the Northern Boreal Initiative but seek assurances that the process will be mutually beneficial and [will] adequately address concerns the First Nations have." The First Nations stressed that they need to be in control of development activities on their traditional lands and that for the NBI to be successful it will require transparency from government and industry.

The individual First Nations who submitted comments pointed out that the NBI required First Nations to secure funding to carry out activities such as community consultation, planning and data collection. "The resources available to the First Nation do not accommodate the approach suggested by the Northern Boreal Initiative." MNR's response in the decision notice was to repeat that "the expectation is that First Nation communities will be seeking funding arrangements through a number of agencies; this sourcing of funds will appropriately reflect agency interests and responsibilities."

One of the environmental groups felt strongly that community-based land use planning should only be applied after a broad landscape-level plan had been developed that identified all core protected areas and provincially significant features such as wetlands. It stressed that the NBI area is relatively pristine and there remains an excellent opportunity to protect unaltered wetlands and wetland complexes before resource allocations have been made. It stated that inventories are currently lacking, and the province should ensure that resources and capacity are available to gather this data before strategic land use planning and development begins. MNR's response simply suggested that both government and non-government organizations provide information and support efforts to gain better information.

The other group also suggested that, like protected areas, roads and other potential industrial activities should be planned at a larger scale than the community level. MNR's decision notice said that considerable interest, and caution, was expressed regarding the need to integrate local planning with broader goals and objectives, and to carefully consider the sequencing of planning decisions. MNR said it recognizes the importance of these concerns and will work together with First Nations and interested parties to address them.

MNR's decision notice said there was some interest expressed in expanding planning to cover an all-inclusive northern area, rather than the NBI area. MNR said it "has carefully considered the scope of planning and is prepared to move forward with Community-based Land Use Planning for the defined area based on the expressed interest of the First Nations working with NBI. This is consistent with commitments to move forward and address NBI's goal of new economic development opportunities for First Nations."

MNR made very good use of the Environmental Registry for this project, first posting an information notice at the very early stages, and then a proposal notice with a long comment period. It was misleading, however, to describe the proposal as merely a planning process with no environmental impact, as it really was the NBI itself that was being fleshed out and commented upon. The ministry also responded well to requests for additional consultation, by hosting a meeting with First Nations and extending the comment period. MNR appears to have considered the comments and concerns, but no major changes were made to the proposal.

SEV:
MNR thoroughly considered its SEV in making its decision to adopt the decision. MNR concluded that there were no aspects of the proposal which conflict with any provisions or commitments set out in MNR's SEV and that the proposal serves several purposes of the *EBR*. The SEV consideration acknowledged the environmental significance of the NBI and land use planning.

Other Information:
Almost $3 million was disbursed to the First Nations involved in the NBI from the Living Legacy Trust between 2000 and 2002. The funding was awarded for 'Community-based Land Use Planning', 'biophysical data collection' and other related activities. On December 4, 2002, the provincial government announced it would provide funding through the Ontario Trillium Foundation of $499,500 over three years to assist NAN in land and resources capacity development. NAN sought the funding specifically to hire forestry co-ordinators, to develop a culturally appropriate approach to land management planning and to assist six First Nations' communities on forest management plans.

ECO Comment:
The ECO disagrees with MNR's description of this proposal as a land use planning process with no significant effect on the environment. The way in which resources are allocated does have an impact on the environment.

In the Ontario's Living Legacy land use planning process, one of the goals was to protect remnant natural areas that remained after years of forestry, road and other development. For the most part, the NBI area contains fully intact, fully functioning ecosystems. This is an opportunity to learn from past mistakes in the southern boreal zone and to do things right, to protect a large network of parks and protected areas before the area is opened up to resource development. The precautionary principle should be integral to this approach. Landscape level planning should inform community-by-community decision-making. It is commendable that the ministry has committed to planning for parks before development occurs. The ECO believes that protected areas objectives and targets should be developed for the NBI area as a whole.

First Nations, and particularly the umbrella organization NAN, raised major concerns about the NBI, indicating a mistrust of MNR and its motives. Yet it appears that planning is proceeding in many individual communities, perhaps indicating that the process has proved a reasonable framework to begin planning. MNR has committed to a community-led process, and dual endorsement of the land use strategies by MNR and the First Nations communities. Clearly transparency will be a key to implementing this initiative.

The ECO believes that it is imperative that MNR assess the ecological implications of industrial logging in the northern boreal forest and make the research results available to the public. MNR also needs to clarify who is responsible for funding and carrying out inventories. MNR should keep in mind that the NBI area boundaries are arbitrary, and that watersheds and other ecological boundaries straddle them. There is a need to integrate inventories and other ecological data with corresponding units in the area to the south. The public will get further opportunity to comment on this initiative, during the environmental assessment process, and during comment periods on the Registry associated with each land use planning process.

Review of Posted Decision:
Lafarge Canada Inc.: Approval of Licensee-proposed Amendment to an Aggregate Site Plan

Decision Information:

Registry Number: IB02E3005	Comment Period: 30 days
Proposal Posted: January 15, 2002	Number of Comments: 5
Decision Posted: January 10, 2003	Decision Implemented: June 2003

Description:
Lafarge Canada Inc. ("Lafarge") applied to MNR to amend its current site plan under the *Aggregate Resources Act* by changing the operation/rehabilitation plan. The existing site plan had required the proponent to backfill the gap between two large stockpiles of topsoil. The amended plan, approved in January 2003, will permit Lafarge to use the topsoil to construct a third large stockpile. The stockpiles will remain as part of the rehabilitation of the site. Lafarge will also install a drainage system for the three overburden stockpiles in order to mitigate slope erosion.

Implications of the Decision:
Stockpiles are created by the removal of topsoil in extractive quarry operations. "Overburden" refers to the surface soil that must be moved away in order to extract aggregates. While it is possible to stockpile topsoil properly and reuse it during site rehabilitation, inadequate stockpiling may allow topsoil to blow away or run off into water courses. The potential environmental impacts of topsoil and overburden stockpiling include: changed flow and drainage patterns; increased risk of flooding; surface water siltation; increased noise; and increased levels of dust.

The addition of a third large stockpile at the Lafarge site has the potential to increase impacts on the area such as dust, noise and siltation. While Lafarge will be installing a drainage system to deal with slope erosion, the description of the amended site plan does not address other potential environmental impacts.

Public Participation & *EBR* Process:
The instrument proposal was posted on the Registry on January 15, 2002 for a 30-day comment period. MNR received one comment from the local municipality in response to the notification process under the *ARA*, and four comments in response to the Environmental Registry notice under the *EBR*. The local municipality had no objections to the proposed amendment.

The comments received under the *EBR* were from local residents. Three of the commenters lived within 500 metres of the site and the other lived approximately 15 kilometres away. The main concerns of the local residents included: the composition of the new stockpile; the impact on the environment from dust and material blowing from the stockpiles and other stored material; the impact of the stockpiles on nearby wells, ground water and surface water; the issue of where water from the proposed drainage system will drain; the negative impact on agricultural drains and farming land in the area; and the need for public access to monitoring data and reports from the quarry. They also believed that they had received inadequate notice and information concerning the proposal.

MNR noted in the Registry decision notice for this instrument that four comments had been received with respect to drainage, dust, and impacts on adjacent land use. In response to an inquiry from the ECO, MNR stated that the plan was not changed as a result of the comments received. MNR decided that these concerns had been adequately addressed in the site plan, and that the operational amendment proposed "would enhance drainage controls by relocating the approved stockpile area to another nearby location with a drainage system." However, MNR did not specify whether or how concerns related to issues other than drainage had been addressed. MNR stated that it was proceeding with the approval of this proposal.

SEV:
No SEV documentation was provided by MNR. When the ECO further inquired about SEV consideration of this decision, MNR field staff replied that their office had never heard of the Statement of Environmental Values.

Other Information:
As of April 24, 2003, the site plan was still under revision by the proponent. MNR has advised that the plan is very complex. MNR expected that the amended site plan would be ready in June 2003 and offered to provide it to the ECO when available.

ECO Comment:
While MNR stated its belief that Lafarge's site plan adequately addresses concerns about drainage, it did not respond to the other concerns in the community about the potential impacts of overburden stockpiling, such as stockpile composition, dust and public access to information. In fact, MNR did not fully describe in the decision notice all of the concerns set out by the four members of the public who commented on the proposal. There may be serious environmental impacts from the addition of a third stockpile, and MNR should have reassured the community that these potential impacts have been addressed, if indeed they have.

The 30-day comment period provided for this proposal does seem appropriate for this site plan amendment. However, the notice did not include sufficient information about the proposal given that it did not provide an electronic link to the proposed amendment to the instrument.

Review of Posted Decision:
A Natural Heritage Strategy for the Ontario Ministry of Natural Resources Southcentral Region

Decision Information:

Registry Number: PB03E3001	Comment Period: 30 days
Proposal Posted: January 6, 2003	Number of Comments: 3
Decision Posted: March 4, 2003	

Description:
The Natural Heritage Strategy for the Ontario Ministry of Natural Resources Southcentral Region ("strategy") provides overall direction for natural heritage activities and their integration into all program areas that the ministry delivers. MNR states that it is a means of setting priorities so that limited resources and capacity can be effectively focused.

MNR's southcentral region covers all of Ontario south of the French River. It comprises approximately 12 million hectares, 80 per cent of which is private land. The strategy recognizes that increased urbanization and the fragmentation of natural landscapes have placed many species and ecosystems at risk. MNR states that the large human population living in the southcentral region has also caused significant pressure on natural heritage features and functions through a variety of recreational pursuits.

The strategy identifies the components of a vision for the southcentral region and proposes a series of actions that define a comprehensive natural heritage program. Steps necessary to identify and establish a natural heritage system and its individual components are outlined in the strategy. MNR states that the strategy recognizes that the completion of a natural heritage system provides a strong foundation for Ontario's Living Legacy (OLL), and is critical to Ontario's system of parks and protected areas.

MNR states that it will establish a natural heritage system that will consist of "core conservation lands and waters linked by natural corridors and restored connections." Natural heritage systems are identified by the ministry as landscape networks for the conservation of biological diversity, natural functions, and viable populations of indigenous species and ecosystems. MNR's achievement of this vision depends on four interrelated components:

- a clearly defined natural heritage program;
- shared stewardship, communication and education;
- information, research and monitoring; and
- training and development.

The ministry describes each of the components and sets out their related goals and strategic actions. The strategic actions are set out in more detail with specific tasks and their relative priority in an appendix to the strategy. MNR anticipates updating the appendix annually. The appendix does not contain new policy or programs, but is essentially a workplan. As part of the strategy, MNR states that it will develop a natural heritage policy and procedures manual to clarify its own roles and responsibilities.

In the strategy, MNR describes a significant shift in its approach to natural heritage protection and management. One of the differences is a move from a traditional focus on site- and species-specific identification, protection and management, to a landscape level approach. Another change is from a focus on protected areas to a focus on natural heritage system planning including stewardship on private lands and restoration. MNR describes an increasing reliance on partners, as it historically developed and delivered its own programs internally. The ministry now recognizes a shared role with stewardship councils, municipalities, NGOs and the private sector.

The ministry states that the identification and establishment of parks and protected areas is a central component to its strategy. MNR acknowledges that efforts to date have largely focussed on the northern half of the region, as part of the planning area for the OLL initiative. Now, the ministry asserts that the next step is to focus on the creation of protected areas to the south and east of the Canadian Shield, which was beyond the scope of OLL.

MNR states that it will apply a natural heritage systems approach to landscape planning regardless of the tenure of the land. Land acquisition will be used as mechanism for protection of natural heritage through such programs as the Ecological Land Acquisition Program. MNR states that lands that are not provincial parks or conservation reserves, but are owned and protected by other means, should be recognized as contributing to a protected areas system. The ministry states that natural heritage values should be integrated into all aspects of resource planning and management, highlighted by the significant amount of related municipal planning. For example, the strategy states that the Oak Ridges Moraine Conservation Plan serves as an example of the identification of core conservation lands.

MNR identifies the conservation of species at risk within the southcentral region as being a key priority of the strategy. The ministry states that the conservation of the more than 750 species at risk found within the region is central to the ministry's programs. These species include those listed by both the provincial and federal governments as being endangered, threatened, vulnerable, of special concern, and those identified by MNR as being extremely rare. The ministry states that it is a very high priority to develop and implement recovery plans for all threatened and endangered species within the region. The strategy also commits staff to participate in the development of a provincial species at risk strategic plan.

The strategy recognizes that Ontario's planning process is an important mechanism to protect natural heritage. MNR also states that the Forest Management Planning process is based on ecological principles that consider natural heritage. The strategy also identifies the Provincial Policy Statement under the *Planning Act* as serving a fundamental role in protecting natural heritage on private lands in the southcentral region. The ministry asserts that the Conservation Land Tax Incentive Program (CLTIP) and the Managed Forest Tax Incentive Program (MFTIP) are valuable tools in protecting in natural heritage.

Implications of the Decision:
It is difficult to judge what the implications of the strategy may be, as the targets will be set at the district level. It appears that there might be new landscape-level guidance to municipalities, but given MNR's uncertain role in municipal planning it is unknown what impact that guidance will have.

Public Participation & *EBR* Process:
MNR held a workshop on the strategy for 20 environmental organizations in the spring of 2001. The ministry then created a forum for interested organizations to exchange information on natural heritage issues. These organizations have met with MNR on three separate occasions to hold discussions.

MNR placed the proposal notice for the strategy on the Environmental Registry in January 2003 for a 30-day comment period, receiving three comments. Two commenters noted that the strategy, while it does indicate the connections between many MNR programs, fails to link with initiatives undertaken by other ministries or the federal government. One of the commenters suggested that the environmental farm plan program directed by the Ontario Federation of Agriculture has significant implications for protecting natural heritage in southern Ontario. This commenter also believed that, in general, more emphasis was needed for stewardship on private lands. The ministry did not make any changes to its strategy as a result of the comments.

MNR stated that the strategy will be reviewed annually and opportunities for input will be provided. The ministry will also hold two Southcentral Region Natural Heritage Forums annually.

SEV:
MNR states that it reviewed its Statement of Environmental Values (SEV) in the creation of the strategy. The ECO agrees that this decision is consistent with many of the principles and values contained in the ministry's SEV and the purposes of the *EBR*.

Other Information:
This strategy is related to MNR's Northern Boreal Initiative (NBI). Although the strategy and NBI vary in their approach, each are broad planning-related exercises with significant environmental implications at the landscape level. The strategy and NBI will affect the ministry's creation of protected areas in the southern and northern portions of the province, both of which were beyond the scope of OLL.

This strategy is also related to several recommendations made previously by the ECO to MNR. In 1999/2000, the ECO recommended that MNR, MMAH and MOE research the scope of ecosystem fragmentation in southern Ontario and evaluate and select management options to slow down or even reverse the trend. Also in 1999/2000, the ECO recommended that the ministries assist municipalities to ensure that ecosystem fragmentation is adequately considered in land use planning decisions and that provincial interests in protecting natural heritage and functioning forest ecosystems are safeguarded.

In 2001/2002, the ECO recommended that the Ministry of Natural Resources create a new legislative framework for provincial parks and protected areas, including conservation reserves, with the mandate of conserving biodiversity. Also in 2001/2002, the ECO recommended that the Ministry of Natural Resources develop a provincial biodiversity strategy in consultation with affected ministries, municipalities and stakeholders.

ECO Comment:

The ECO encourages MNR to develop strategies that address significant environmental issues, such as natural heritage. However, the ECO is concerned that MNR has merely presented its existing work plans for the region and characterized them as a natural heritage strategy. MNR does state that the strategy does not create any new policy. The ministry explains that the difference between this strategy and ministry operational planning processes is that MNR's Southcentral Region has chosen to consult with stakeholders to help determine priorities.

The strategy does contain a commendable vision of completing a natural heritage system of core conservation lands and waters linked by natural corridors and restored connections. However, the strategy does not explain how the ministry would systematically achieve this vision. As illustration, none of the policies or programs referred to in the strategy specifically address how the ministry would create a system of natural corridors and connections to maintain or restore natural heritage in the region.

Many of the operational programs listed by MNR in the strategy are commendable. However, the strategy does not contain any measurable targets for which to review the success of the strategy, nor does it contain any timeframes for which the specific objectives will be completed. MNR states that targets will be set according to district-specific information.

To encourage greater transparency in the implementation of the strategy, the ECO encourages MNR to provide clearly detailed plans that explain how, where, and when targets will be achieved and by whom. If the strategy is intended to complement OLL, as is suggested by the ministry, planning at a landscape scale should occur and the same level of public input should be sought. The ministry does state that it will produce Ecoregional Direction Statements and State of the Resource Reports. The ECO encourages MNR to place information notices covering these reports on the Environmental Registry.

The ECO recognizes the significant role that municipalities play in maintaining and restoring natural heritage in southern Ontario. The ECO recommended in its 1999/2000 Annual Report that the ministries assist municipalities to ensure that ecosystem fragmentation is adequately considered in land use planning decisions and that provincial interests in protecting natural heritage and functioning forest ecosystems are safeguarded. The strategy does list numerous initiatives that MNR has undertaken to assist municipalities in this regard.

MNR suggests that private and municipal lands should be recognized as contributing to a protected areas system. The ECO agrees that the actions taken by private landowners or municipalities to protect natural heritage should be included. However, this involvement does not relieve MNR of its own responsibility to take a leading role in achieving the over-all plan. Privately protected lands should not be viewed as a substitution for areas that are specifically recognized as protected areas by legislation such as the *Provincial Parks Act*. The ECO encourages MNR to identify and regulate protected areas in southern Ontario based on ecological representation and special natural heritage values, such as habitat for species at risk.

MINISTRY OF NORTHERN DEVELOPMENT AND MINES

Review of Posted Decision:
International Graphite Inc., Kearney Graphite Mine: *Mining Act* s. 147(1) – Notice of Issuance of Director's Order to File a Certified Closure Plan

Decision Information:

Registry Number: ID02E1004	Comment Period: 30 days
Proposal Posted: May 8, 2002	Number of Comments: 8
Decision Posted: August 9, 2002	Decision Implemented: August 9, 2002

Description:

The Kearney Graphite Mine is a non-operational graphite mine owned by International Graphite Inc., and located on Graphite Lake, in the headwaters of the Magnetewan River, west of the Town of Kearney within Butt Township. International Graphite Inc. purchased the Kearney Graphite mine in late 1998 or early 1999 from Applied Carbon Technology Inc. which operated the site from 1987 through 1995. The mine had been up for sale since its operations were abandoned. But, International Graphite Inc. purchased the mine with the intention of re-opening the site. Despite the change in ownership and Applied Carbon Technology Inc.'s secured indemnity for potential environmental liabilities associated with the mine, the site itself was still subject to environmental clean-up orders issued by the province.

The mine was previously the subject of two applications for investigation under the *EBR* (I98022 and I98023). One application alleged contraventions of the federal *Fisheries Act* from on-going discharges from the mine site, by Applied Carbon Technology Inc. The other application for investigation alleged contravention of the *Ontario Water Resources Act (OWRA)* and the *Environmental Protection Act* from the same discharges. Both MNR and MOE denied the applications on the grounds that this would duplicate an on-going investigation involving several ministries. At that point, Applied Carbon Technology Inc. was issued with a field order by MOE, requiring it to take immediate action on implementing an abatement plan to address acid rock drainage.

In 1998 Applied Carbon Technology Inc. was notified that additional abatement measures would be applied as appropriately and expeditiously as possible if it failed to comply with the field order. This order was later revoked, following an appeal by both Applied Carbon Technology Inc., and the incoming owner International Graphite Inc. In late 2000, MOEE launched an *OWRA* prosecution related to the on-going contraventions at the Kearney Graphite Mine site. In May 2002, International Graphite Inc. was fined $55,000 plus a 25 per cent victim surcharge for non-compliance with several MOE control orders issued under the *OWRA*.

International Graphite Inc. failed to satisfy the Ministry of Northern Development and Mines' (MNDM) Director of Mine Rehabilitation's January 2002 request for the specifications addressing the completion of the closure plan. Subsequently, MNDM posted on the Environmental Registry a proposal for the issuance of a Director's Order pursuant to Subsection 147(1) of the *Mining Act*. The order requires the company to file a certified closure plan with MNDM within seven months of the date of issuance of the proposed Order. Specifically, the proposed order required that the closure plan provided for the rehabilitation of all the mine hazards on the property in accordance with the prescribed standards of the Act. In particular, the closure plan was required to address rehabilitation of the waste rock dump, mill yard area, tailings area, tailings dam, polishing pond, open pit and all related buildings and infrastructure in accordance with O.Reg. 240/00. The Director of Mine Rehabilitation was of the view that mine hazards on the site, namely the tailings and waste rock, might leach contaminants into nearby ground and surface waters. The final Director's Order was issued in August 2002.

Implications of the Decision:
The decision to issue a Director's Order to file a certified closure plan demonstrated the action and vigilance required on the part of government ministries to bring about the successful rehabilitation of dangerous and environmentally damaging mine hazards. The mine operator in this particular case was held accountable for its longstanding inaction and prosecuted accordingly. The filing of a certified closure plan will be well received by residents in the area. However, MNDM has clarified in its decision notice that the purpose of the order is to seek compliance with the *Mining Act* and environmentally responsible operation of the site, as opposed to the immediate closure of the site. This may cause some concern amongst residents and local environmental groups who have interpreted this order as a sure indicator of the mine's eventual closure. Following the posted comment period provided for this proposed order, some local municipalities expressed concern with the closure of the site. They feared the closure would negatively impact the local economy.

Public Participation & *EBR* Process:
MNDM received eight comments during the 30-day Registry public comment period. The ministry stated that all eight comments were considered in its decision whether or not to proceed with the proposed order. MNDM reported that the comments received were consistent with concerns expressed within the ministry. As a result some terms and conditions were added. All eight comments expressed support for the Director's Order for the company to file a certified closure plan. All of the comments received were opposed to the continued operation of the site. However, MNDM was informed following the end of the Registry public comment period that some local municipalities supported renewed operation of the site in order to enhance the local economy.

The proposal notice and the decision notice failed to include any hyper-links to the proposed Director's Order or the terms and conditions of the closure plan required to be filed. Both notices contained little information about the content of the order or the closure plan. However, MNDM expressed quite clearly in its decision notice the impact the comments received had on the ministry's decision. MNDM acted accordingly by clarifying the intent and purpose of the Director's Order in the decision notice posted on the Registry. By doing so, MNDM may have averted disappointment by some commenters who may have misinterpreted the proposed order as a formality preceding the inevitable closure of the site.

SEV:
MNDM did not provide any evidence of a detailed consideration of its SEV in making this decision. However, the decision to issue the order was consistent with the goals and objectives of MNDM's SEV commitments. In particular, this decision incorporated the following stated goals and objectives:

- Mitigating short term effects of mining on the environment; and
- Eliminating the long terms of effects of mining on the environment.

Other Information:
In 1998, International Graphite Inc. was a co-appellant in an appeal of the director of MOE's decision to issue an Order requiring the company (including both International Graphite Inc. and Applied Carbon Technology Inc.) to ensure that equipment, materials and staff were available to operate the mill yard facilities to prevent discharge of contaminants and any adverse effect caused by such a discharge. The order also required the submission of plans detailing the removal of acid-generating materials from the mill-yard. In addition, the order required the company to conduct both surface and groundwater monitoring to assess the effectiveness of acid-generating material removal. The appellants withdrew their appeals in this matter after the director of MOE revoked the original order. The reason given for the revocation was that the Director approved a report submitted by International Graphite Inc. and was satisfied that the requirements of the order would be met. See Registry appeal notice IA9E0154.

ECO Comment:
The ECO commends MNDM for enforcing the requirements of the *Mining Act*, and for issuing a Director's Order requiring the company to file a certified closure plan. In addition, the ECO is pleased to see that the *EBR* application for investigation process utilized in 1998 was instrumental in highlighting the environmental hazards present at the Kearney Graphite Mine.

MNDM should be commended for the clarity of its explanation of the effect of public comments on the ministry's decision. In particular, MNDM showed sensitivity to the commenters' support for the closure of the mine site, while not disregarding the intended purpose of the Order, which was to bring the site into adherence with the requirements of the *Mining Act.*

However, MNDM could have provided better SEV documentation that reflected in greater detail its consideration of SEV goals and objectives in the context of the specific proposal. The ECO also encourages MNDM to begin to include hyper-links to the proposed order and the terms and conditions of the required closure plan within the posted proposal notice.

SECTION 5

ECO REVIEWS OF APPLICATIONS FOR REVIEW IN 2002/2003

SECTION 5: ECO REVIEWS OF APPLICATIONS FOR REVIEW

NOTE: An allegation contained in an application may or may not have been proven to be an offence under the laws of Ontario or Canada

MINISTRY OF AGRICULTURE AND FOOD

Review of Application R2002013: Open Freshwater Netcage Aquaculture Operations – Nutrient Management (Review Denied by OMAF)

Background/Summary of Issues:
In February 2003, the applicants submitted an application for review requesting consideration of discharge from aquaculture operations to be included in the *Nutrient Management Act*. The applicants were concerned that the effect of aquaculture operations on bacterial levels in adjacent water has not been analyzed. They provided a list of bacteria that are pathogenic to humans and that are associated with fish, and cited an assessment of water quality in the Northeast Manitoulin that suggested high bacterial levels may be related to an aquaculture operation.

Information regarding two related reviews R2002011 and R2002012 can be found on pages 209 and 229 respectively.

Ministry Response:
In April 2003, OMAF advised the applicants that a review is not warranted.

ECO Comment:
The ECO will review the handling of this application in the 2003/2004 reporting period.

MINISTRY OF THE ENVIRONMENT

Review of Application R0266: Regulations for Refillable Containers for Carbonated Soft Drinks
(Review Undertaken by MOE)

Background/Summary of Issues:
The applicants wanted Reg. 340 (container regulation) and s.3 of Reg. 357 (refillable containers for soft drinks) under the *Environmental Protection Act* to be replaced with policies that promote effective multi-material recycling programs and packaging stewardship in general. The applicants felt that the refillable quota regulation treats the soft drink industry unfairly, and that the regulations damage the environment through negative impacts on solid waste diversion and energy use.

Ministry Response:
The Ministry of Environment (MOE) agreed in 1995 to review Regs. 340 and 357 in the broader context of overall program streamlining and planned to report its decision by early 1997.

In its 1997 report prepared for the ECO, MOE stated that the ministry had been seeking stakeholder views on alternate approaches for promoting refillable containers through its consultations as part of the MOE regulatory reform exercise. In addition, MOE stated that it had referred the related issue of funding the Blue Box system and clarifying roles and responsibilities in the province's solid waste management system to the Recycling Council of Ontario (RCO).

In its 1998 report to the ECO, MOE stated that it continued to consider stakeholder views on alternate approaches for promoting the use of refillable containers through the ministry's regulatory review exercise. MOE also noted that due to the complexity of this issue, the government is still considering all options for managing soft drink and other beverage containers in the province and no decisions had yet been made on the refillable regulations.

In August 2000, MOE provided an update on R0266 in response to the 1999 draft ECO annual report. MOE stated the following:

- On November 3, 1999, the Minister announced the establishment of the Waste Diversion Organization (WDO), a partnership including representatives from industry, provincial and municipal governments, and a non-governmental organization, with a commitment of $14.5 million from its members to help fund municipal Blue Box and other waste diversion programs. The Organization will develop, fund and implement programs for composting, recycling, special household waste depots, and in the longer term, address problem wastes, such as tires, used oil and other special household wastes.
- The WDO has also been asked to develop options for a sustainable funding formula to provide up to 50% of the net operating costs for municipal Blue Box programs, as well as to continue the programs described in the WDO's Memorandum of Understanding (MOU). The WDO has also been asked to develop a special household waste management program, including options for its funding. The ministry, in recognizing consumer preferences, has moved to deal with the non-refillable containers through the Blue Box Program. The

> refillable soft drink container regulations are closely linked to the Blue Box Program since the regulations' refillable requirements were related to recycling rates and prompted the initial industry funding support for the Blue Box Program in 1985. The regulations will be reviewed after testing the effectiveness of the new organization. No enforcement of these regulations will occur while this review is underway.

In July 2002, MOE provided an update on R0266 in response to the 2001/2002 draft ECO annual report. MOE stated the following:

> The *Waste Diversion Act, 2002* (*WDA*) received Royal Assent on June 27, 2002, and the ministry will be finalizing the review of Regulations 340 and 357, which are tied to the *WDA*. The *WDA* requires the establishment of Waste Diversion Ontario (WDO) which will be requested to develop a sustainable funding plan for the Blue Box program. Once the WDO is up and running and municipalities are receiving funding, the review of Regulations 340 and 357 will be finalized.

In late April 2003, MOE posted a proposal notice on the Registry stating that it intends to repeal the refillable regulations now that WDO has been established. In May 2003, MOE also notified the applicants that it had completed its review, and was proceeding with the repeal of the regulations.

ECO Comment:
For several years the ECO has stated that it finds the delay in completing this review unacceptable. Thus, we are pleased that the MOE finally has taken action on this file. The ECO will review the handling of this application in the next ECO annual report.

Review of Application R0334:
Classification of Chromium-containing Materials as Hazardous Waste
(Review Undertaken by MOE)

Background/Summary of Issues:
The applicants requested that Regulation 347 under the *Environmental Protection Act* be reviewed. Under the current regulation, a waste is considered toxic if the total chromium extracted from it during a leachate test exceeds 5 mg/L. The applicants said the legislation should differentiate between toxic and non-toxic forms of chromium. Treating a non-toxic material as hazardous places an unnecessary economic burden on industry.

Ministry Response:
MOE decided in 1996 to conduct a review.

In December 1997, MOE told the ECO that proposed changes to a federal Transport Canada regulation will deal with this issue. MOE indicated that in the interests of federal/provincial harmonization work, and to avoid duplication of effort, it was waiting for the federal regulation to be finalized before doing its own review. MOE did not anticipate that the federal work would be complete before early 1998.

In December 1998, MOE indicated that this review would be part of the national harmonization initiative review related to the definition of hazardous waste. The ministry stated that it exercises no control over the timing of this federal initiative. MOE informed the ECO in July 2002 that the applicant is no longer producing the chromium-containing waste stream, and that MOE staff would contact the applicant to determine if they may be withdrawing interest in the review. In May 2003, MOE staff again informed the ECO that this contact was yet to be made.

ECO Comment:
The ECO finds the seven-year delay in completing this review unreasonable. The ECO will monitor the progress of the recent initiative by MOE, which may lead to withdrawal of the interest on the part of the applicant and a closing of the file.

Review of Application R2001010: Policy Regarding the Use of Sound-Sorb (Review Undertaken by MOE)

Background/Summary of Issues:
In the past three years, a number of gun clubs across southern Ontario have begun to build high berms on their properties to comply with new federal regulations to reduce noise and dangers from stray bullets. A hauling company has encouraged gun clubs to build berms using a mixture of approximately 30 per cent sand and 70 per cent paper mill sludge. The mixture of paper mill sludge and sand is called Sound-Sorb and in 1999 MOE decided that the available exemption provisions under Part V of the *EPA* applied to Sound-Sorb, and as a consequence, exempted Sound-Sorb from waste management regulations. Thus the ministry does not regulate this material, or control how it is placed on land. If this material were deemed to be a waste, it would be subject to controls to protect the environment, and could only be applied to land if certain conditions were followed.

The paper mill sludge used to produce Sound-Sorb is a waste generated by two paper recycling mills, both owned by Atlantic Packaging, and located in Scarborough and Whitby. Together, the mills generate approximately 700 tonnes wet weight of paper sludge daily, seven days a week. The Sound-Sorb berms are typically very large. For example, the berm at the Oshawa Skeet and Gun Club is approximately 90 m long, 20 m wide and 15 m high, and contains an estimated 27,000 cubic metres of material, equivalent to roughly 200 tractor trailer loads of the material. There are now similar berms in eight locations in southern Ontario. The hauling company supplies Sound-Sorb free of charge, and at trucking costs which are a small fraction of the normal charge.

Local residents say that the impact of these paper mill sludge berms on surface water and groundwater has not been examined. They note that high levels of coliform bacteria have been found in samples of the paper mill sludge.

In December 2001 the ECO received an application for review concerning Sound-Sorb. This application under the *EBR* requested a review of MOE's policy exempting Sound-Sorb from the *Environmental Protection Act* (*EPA)* and the waste management regulation (Section 3 of Regulation 347 R.R.O. 1990). The applicants noted that Sound-Sorb is being applied directly to land without any leachate control. They also stated that the paper mill sludge is not being stabilized or changed in any way by adding sand, and that it continues to undergo decomposition in the high berms. They also noted that while MOE had promised testing for bio-aerosols (e.g. airborne fungal spores) in the summer of 2000, no such testing had taken place. In addition, they stated that in 1997, an MOE District office determined that Sound-Sorb was a waste and ordered it removed from a race track in Peterborough, where it had been placed as a noise barrier. They also noted that tests of liquid at the base of a Sound-Sorb berm were carried out for the Durham Region Health Department in 2001. These tests found high levels of both fecal coliform bacteria and *E. coli.* The source of these bacteria remains uncertain.

Ministry Response:
MOE agreed to undertake a review of the issues raised by the applicants. The outcome of the review was confusing, however. Although the ministry confirmed "that the policy regarding the use of Sound-Sorb is applicable", it also noted that technical studies and monitoring are still on-going, and that some form of site-specific controls in the form of construction protocols for the berms will be required in the future. The ministry also made a commitment to respond to any adverse impacts. "Should findings indicate that actual, likely or the potential for adverse impact exists, the ministry will take appropriate follow up action."

The ministry considered the issues raised by the applicants over a 15 month period, and during that time period, the ministry also released studies evaluating the composition of Sound-Sorb at two berm sites.

The Oshawa Skeet and Gun Club Berm
MOE tested samples of the berm at the Oshawa Skeet and Gun Club for a range of chemical and microbiological parameters in the fall of 2001, 17 months after the berm was constructed. MOE published these results in June 2002. One interesting finding related to bacterial activity in the berm material. The report explained that pulp and paper processes have long been known to produce wastes with high levels of thermotolerant, fecal indicator bacteria, even though no fecal source is present in the process. For example, fresh paper sludge from Atlantic Packaging is known to contain *E. coli* concentrations that are comparable to those in sewage sludges used for land application. MOE reported that vigorous microbial activity and heating to 78 degrees Celsius had occurred within the berm approximately six months prior to MOE's sampling. However, by the time of MOE's sampling the berm material was at ambient temperature, the organic carbon concentration had been cut in half, and the fecal coliform levels were less than the detection limit. The report speculated that this change was because most of the nitrogen in the berm had been used up by bacterial activity.

The study also tested for a wide suite of elements and organic compounds, and compared them to several guidelines used by MOE in pollution abatement and waste management activities.

Almost all the tested parameters were found to be lower than the levels set out in *Guidelines for Use at Contaminated Sites in Ontario.* Only total petroleum hydrocarbons were found to exceed these guidelines. The report also found that levels of toluene, xylenes and ethylbenzenes were higher than the typical range of uncontaminated soil in Ontario.

The report recommended further study in a number of areas, especially groundwater and surface water testing for fecal coliform bacteria and for a full suite of chemical parameters. The report also recommended an investigation of the potential for petroleum hydrocarbons moving through the berm at the Oshawa Skeet and Gun club.

The East Elgin Sound-Sorb Berm at Aylmer

In August of 2002, MOE district staff sampled two berms at the East Elgin site, which had been in place for six months and one month respectively. They also sampled fresh paper fibre sludge which had just been trucked to the site. These samples were also analysed for a range of chemical and microbiological parameters, similar to the analysis carried out on the Oshawa berm. MOE's findings regarding the East Elgin site were released in January 2003. As at the Oshawa berm, almost all the tested parameters were found to be lower than the *Guidelines for Use at Contaminated Sites in Ontario (Table A)*, again with the exception of total petroleum hydrocarbons (TPHs). TPH levels found at East Elgin were higher (7,600-11,000 micrograms/gram) than levels found at the Oshawa berm (3400 micrograms/gram), and were closer to the concentration found in the fresh paper fibre sludge (13,000 micrograms/gram). The *Guidelines for Use at Contaminated Sites in Ontario (Table A)*, set a limit of 1,100 micrograms/gram for TPHs in soils. Soils containing a higher concentration of TPHs would usually have to be remediated or removed if they were in a setting accessible to the general public. However, since the berms are not composed of soil, the guideline does not apply directly. Volatile hydrocarbons such as toluene and xylenes were not detected at the East Elgin sampling sites. Low levels of acrylamide monomer (an agent used in printing inks) were detected at the East Elgin site.

Towards the end of its review of the application, the ministry also initiated three additional long-term studies, which are likely to yield findings in mid or late 2003:

1. On January 13, 2003, MOE issued a Request For Proposal for a Site Specific Risk Assessment on the Sound-Sorb Berm at the Oshawa Skeet and Gun Club. It is expected that the findings of this report will be presented at a public meeting in mid-September 2003, and that a final report will be complete in early October 2003.

2. On November 15, 2002, the field testing component of a bio-aerosol study was completed at the Oshawa Skeet and Gun Club. The ministry received a draft report on March 17, 2003, which is now being reviewed by a Bio-aerosol Committee consisting of the ministry, Region of Durham Health Unit and the general public. The ministry notes that preliminary conclusions are that bio-aerosol releases from this site are expected to be low and of minimal concern. Nevertheless, further air testing will be done at this site and also at the East Elgin site when weather permits.

3. On December 5, 2002, MOE began sampling a set of groundwater monitoring wells; four at the Oshawa Skeet and Gun Club, six at a nearby composting site and four at a nearby gravel pit where paper fibre sludge was previously stored. The ministry intends to monitor these wells for a period of one year. MOE has informed the ECO that there will be a sampling regime for each of the four seasons.

The ministry's response to this *EBR* application did not provide any reasons for almost three years of delays before MOE began collecting groundwater monitoring data. While the ministry says that the wells will be monitored for a period of one year, a more detailed testing protocol (outlining frequency of testing or parameters to be tested) has not been released. Concerned residents and their local Members of Provincial Parliament (MPPs) have been demanding groundwater monitoring since the summer of 2000, and three successive Ministers of the Environment have promised to have groundwater monitoring wells installed at Sound-Sorb sites.

ECO Comment:

The ECO's review of this application indicates that MOE has mishandled the Sound-Sorb issue repeatedly since 1999, when questions first arose about the status of this material. The ministry's first, and probably most significant error was to decide that Sound-Sorb was exempt from the *EPA* under S.3(2)(1)(i) of Regulation 347 because it is a product rather than a waste.

MOE's Policy on Sound-Sorb

The company that produces Sound-Sorb received approval from Industry Canada in July 1999 to register Sound-Sorb as a trademark. It appears that around this time, MOE received a request to consider Sound-Sorb a product rather than a waste. MOE technical and legal experts advised at the time that the Sound-Sorb material is exempt from Part V of the *Environmental Protection Act* and Regulation 347. Moreover, the MOE experts decided that a regulatory change was not required, and the company could rely on an existing provision in Regulation 347. MOE's policy decision was never posted on the Environmental Registry for public notice and comment.

MOE experts reasoned that the paper mill sludge was municipal waste as defined in Regulation 347, even though the material was produced by an industrial process. Because the paper mill sludge was municipal waste, they determined that the following exemption of Regulation 347 applied to Sound-Sorb:

> "to be wholly utilized at a site in an ongoing agricultural, commercial, manufacturing or industrial process or operation used principally for functions other than waste management if the process or operation does not involve combustion or land application of the waste." (Section 3(2)1(i) of Regulation 347 RRO 1990)

MOE experts further reasoned that the last five words of this exemption "land application of the waste" were not a hindrance to the application of Sound-Sorb to land in the form of berms, because "it is not the paper fibre biosolids but rather the product Sound-Sorb that is in reality being placed on the land". MOE continues to rely on this argument. However, the ECO views this argument as strained, circular and very unconvincing.

There were undoubtedly additional, more pragmatic reasons and pressures that led MOE to treat Sound-Sorb as a product. A key pressure must have been the overall policy direction to increase waste diversion from landfills, which has been an important goal for the ministry since the early 1990s. This goal was further reinforced and formalized in June 1998 by MOE's proposed new regulation to consolidate and update a wide range of waste management rules.

Another incentive must have been the fact (as noted by MOE in its response to the *EBR* applicants), that Sound-Sorb is composed largely of waste paper fibre sludge produced by recycling Blue Box materials such as newspapers, magazines, office paper, mixed paper and corrugated cardboard. The recycling operations carried out by Atlantic Packaging produce approximately 190,000 tonnes of waste paper fibre sludge annually. Since the success of Ontario's Blue Box program is dependent on markets for its collected materials, and since Atlantic Packaging represents a key market for waste paper, MOE would be reluctant to create obstacles for the smooth operation of this company. Requiring the company to landfill the paper fibre sludge would have increased costs.

It is also very likely that MOE's decision on Sound-Sorb was influenced by recent court cases, which some have interpreted as limiting the ministry's ability to define materials as wastes. In a key case in 1997, Philip Enterprises received a ruling from the Ontario Court, General Division that chop-line residue purchased by the company for recycling was not a waste, but rather a resource.

Yet another factor contributing to MOE's decision must have been the past difficulties experienced by the company and the ministry in finding acceptable waste management solutions for waste paper fibre sludge. The ECO devoted several pages to this issue in its 1998 Annual Report (page 179). The ECO recommended at the time that MOE should involve the public in a broad policy review of the overall environmental costs and benefits of recycling and reuse of various types of industrial wastes, including composting and applications to land. It was clearly difficult to find a good regulatory fit and a successful technical solution for managing large quantities of waste paper fibre sludge. Furthermore, the regulatory environment was in flux in 1999 because waste management regulations were being overhauled. In this context, treating Sound-Sorb as a product may have seemed an expedient solution, greatly reducing the ministry's regulatory responsibility for this material.

MOE decided to adhere to its 1999 decision, even as the construction of large berms of Sound-Sorb at eight locations resulted in mounting complaints and concerns from local residents, municipalities, MPPs and environmental groups. Members of the public have argued that common sense dictates that Sound-Sorb should be considered a waste mixed with sand, rather than a product. They note, for example, that most products are sold for a price, while Sound-Sorb is provided to gun-clubs free of charge. As well, Sound-Sorb consists mostly of waste paper fibre, which MOE agrees is a processed organic waste. The waste paper fibre is not stabilized by the addition of sand; on the contrary, MOE reports variously describe Sound-Sorb as putrescent, as material which heats up and composts, and as material subject to vigorous microbial activity. MOE also notes that the high *E. coli* levels in fresh waste paper fibre sludge make it important to monitor groundwater and surface water draining from one of the Sound-Sorb berms.

The *EBR* applicants also argued that it was contradictory for MOE to consider huge piles of Sound-Sorb to be a product while at the same time treating waste paper fibre sludge as a waste when spread on farm land at a relatively modest rate of four tons per acre. The applicants also noted that the spreading of paper sludge on farm land was falling out of favour both with local farmers and with the Regional Municipality of Durham; that this development had created a waste disposal problem for Atlantic Packaging, and that Sound-Sorb was the answer to this waste disposal problem. In other words, the driving force behind the production of Sound-Sorb is not the need of gun clubs, but the need of paper recycling mills to dispose of their waste.

The ECO agrees with the applicants that there is a very large and troubling discrepancy between MOE's regulatory treatment of land application of paper sludge, and MOE's treatment of the very same material once it is mixed with sand. In March 1999, the same year that MOE determined that Sound-Sorb was exempt from waste management regulatory controls, MOE also issued a two-year certificate of approval to Atlantic Packaging to apply paper sludge on agricultural land. MOE issued a media backgrounder to describe this approval and emphasized that "stringent environmental conditions" were attached. Among other things, MOE required Atlantic Packaging to complete a study showing whether the application of paper sludge is beneficial to soil and crops. The company was also required to reduce the length of time that sludge was stored on farm fields before application, and was not allowed to apply sludge during the winter. The company was also required to hold public meetings to ensure the public has access to timely information about the application program.

The many public concerns about Sound-Sorb have forced MOE to dedicate significant staff resources to studying, monitoring and reporting on this waste material, not to mention responding to voluminous correspondence from a wide range of concerned residents, municipalities and MPPs. Had the ministry determined that Sound-Sorb was a waste at the outset, such studies, monitoring programs and public consultation would have been the responsibility of the waste generator. Under a waste management certificate of approval, MOE could have set terms and conditions, including possible conditions governing siting, treatment, leachate management and remediation, monitoring, sampling and reporting. MOE could also have required the waste generator to fund studies evaluating alternative methods of managing the waste. Unfortunately, MOE's decision to exempt Sound-Sorb from waste management rules did not have the effect of alleviating MOE of regulatory responsibility. On the contrary, MOE was gradually forced to take on many of the responsibilities that would normally fall to the waste generator.

The ongoing controversy appears to have prompted the waste generator in this case (Atlantic Packaging) to evaluate alternative methods of disposing of its paper mill sludge. In January 2003 the company took initial steps to purchase technology which would de-water the sludge, separate out the kaolin clay for reuse or sale, and produce a combustible powder – a renewable fuel source.

MOE's capacity to revise policy

This application illustrates how very difficult it can be for MOE to re-consider or reverse a policy it has taken on a technical issue. In a portfolio where new types of industries, manufacturing processes, emissions and wastes are constantly emerging and where new science findings are common-place, this ministry needs the institutional capacity to periodically rethink its position and shift to a new course. MOE does from time to time re-consider its policies on waste issues, but the process often appears to be unduly time-consuming and tortuous, taxing the energies of both MOE staff and stakeholders. For example, in this reporting period, MOE is phasing out hospital incinerators (see pages 85-88 of this year's annual report and pages 118-128 of the supplement), a policy direction that was first proposed in the early 1990s. MOE is also phasing out the land application of untreated septage (see page 39 of the supplement) which has been a long-standing practice in Ontario. As well, in October 2002 MOE ordered an end to using pulp mill waste liquor as a dust suppressant on rural roads, after a nine year public debate.

MOE's dilemma may be partly that the ministry has not set itself an adequate decision-making framework for evaluating such issues. In the case of Sound-Sorb, MOE is expending significant resources on testing and analysing trace elements in the material, and comparing findings to a variety of guidelines to evaluate the potential for adverse impacts. The guidelines being employed are variously intended for soils, for contaminated sites or for surface waters, but none of them were designed to evaluate a material such as Sound-Sorb. More importantly, while such guidelines can provide an indication of the toxicological profile of a material, they cannot be relied on exclusively to provide a credible stamp of approval for Sound-Sorb or any other material.

The ECO suggests that MOE needs to be asking broader questions in the evaluation of such materials, and needs to consider a wider range of policy goals. The goal to increase diversion of waste from landfill is certainly a worthy one, as is the goal to support and encourage down-stream markets for Blue Box materials. These goals may have had some bearing on MOE's 1999 decision to treat Sound-Sorb as a product. But there are other questions that also need to be asked. For example, is the regulation of a given material fair and consistent with the regulation of other similar materials? Is the principle of producer responsibility being upheld? Are the physical properties or the sheer volumes of the material such that they might impact long-term future uses of the land or the ecological value of nearby lands? If so, what are the implications for siting or for mitigation? Is the ministry applying a precautionary approach and an ecosystem approach in its decision-making, as proposed in the ministry's own Statement of Environmental Values? There is no doubt that many of these questions will be challenging and contentious.

The ECO suggests further that MOE, as the agency responsible for waste management regulation in Ontario, needs to take the lead in developing a workable regulatory framework for industrial wastes such as paper mill sludges. It appears that MOE has stepped back from this responsibility. In 1998 MOE had proposed an overhaul, and had described the need for reform: "There is currently a lack of consistency between technical standards for waste management facilities, approval requirements and potential environmental risk. Therefore, the ministry intends to proceed with the development of four classes of approvals for waste management facilities based on the environmental risk posed." But in August 2002, MOE made public through the Environmental Registry that this 1998 proposal to reform its waste management regulations would not proceed.

The ECO encourages MOE to think beyond the near and now on this issue. The development of an overarching waste management framework may be difficult and time consuming, but the alternative is to continue to expend the ministry's limited resources on thorny case-by-case problems, as this *EBR* application has clearly illustrated.

Review of Application R2001017: Need for New Waste Management Regulations for Transfer/Processing Sites under the *EPA*

(Review Denied by MOE)

Background/Summary of Issues:
This is the second application submitted by the applicants as a result of concerns regarding the Sheldrick Sanitation waste transfer/processing facility. The first was an application for review of the Certificate of Approval (R2001013), which was reviewed in the ECO's Supplement to the 2001/2002 Annual Report (page 253) and summarized below. Their recent submission requests a review of the need for new waste management regulations under the *Environmental Protection Act*.

The applicants contend that the existing regulations are too vague and do not sufficiently protect the public interest in regulating waste management facilities. They cite a proposal for a large expansion of the Sheldrick Sanitation facility in Smithville as demonstrating that the current regime for private waste management facilities under the *Environmental Protection Act* is "too vague".

The applicants highlighted the following issues:

Inappropriate Siting
The Sheldrick Sanitation transfer/processing site is located in a light industrial area and adjacent to a school and residential area. The applicants indicated that their primary concern is inappropriate siting of such facilities which can directly affect the health and safety of residents. Additionally, they refer to the Provincial Policy Statement made under the *Planning Act* which indicates that planning should ensure major industrial facilities and sensitive land uses (e.g. residences and schools) are appropriately designed, buffered and/or separated from each other to prevent adverse effects.

Traffic Impacts
The current regulations do not require a company to consider the impacts its operation may have on the community, notably traffic volume and patterns that waste management facilities create. The applicants feel strongly that insufficient consideration has been given to issues of accessibility and suitability of roads in the areas surrounding these sites.

Monitoring and Enforcement

The applicants argue that waste management regulations under the *EPA* do not include adequate mechanisms for monitoring and enforcement of regulations and Certificates of Approval (C of A).

Extent of Site Changes

The applicants maintain that the *EPA* neglects to consider the extent of changes to a site necessary to accommodate a transfer/processing facility.

Changes in the Management of Waste

Waste management practices have changed dramatically since the *EPA* was first enacted (e.g. increased waste diversion targets). The applicants believe that regulations should reflect these changes.

The applicants requested the following actions:

- All private waste facilities should be placed under the *Environmental Assessment Act* and Cs of A strictly monitored;
- Cs of A should be subject to public comment every 5 years upon renewal;
- The *EAA* should apply to private waste facilities and recognize a correlation between the capacity of the facility and the size and character of the community;
- Regulations should include strict siting requirements related to land use compatibility.

Brief Summary of R2001013

The following is a brief summary of the issues raised in the earlier application for review of a C of A for the J.W. Sheldrick Station waste transfer and processing facility submitted to the ECO in early 2002. The applicants indicated the C of A in question is inadequate in protecting the environment. According to the applicants, the C of A does not currently but should include:

- An enforced, designated truck hauling route;
- An outdoor containment system for possible contaminants or storm water collection;
- Odour safeguards;
- A paved yard to minimize the effects from dust or mud;
- Added protection against nuisance vectors;
- A landscaped buffer between the facility and surrounding land uses;
- Strict, regular monitoring by the MOE; and,
- Enough financial assurance to cover risk.

The ministry conducted a preliminary review of the C of A based on the application submitted on January 10, 2002 but concluded that the existing conditions of the C of A ensured the applicants' concerns were addressed. Therefore, MOE felt there was no need to amend the C of A and denied the application for a full review of the J.W. Sheldrick Station C of A

Ministry Response:

MOE provided the following rationale and arguments for denying the Application for Review:

Inappropriate Siting

Issues relating to facility siting, the zoning of light and heavy industry, and other land use planning do not fall within the jurisdiction of the Ministry. However, the Certificate of Approval process, which focuses on the potential environmental effects from operation of the facility itself, does fall under the Ministry's jurisdiction.

Traffic Impacts

As with siting issues, the MOE states that road design and suitability, traffic impacts, and safety requirements related to land use are the jurisdiction of municipalities and subject to planning processes and by-laws.

EAA Designation

MOE concluded that it is not necessary to make such a broad regulation to include all private waste facilities under the *EAA*. They feel the Certificate of Approval process under the *EPA* adequately addresses potential environmental impacts of transfer/processing sites.

Monitoring and Enforcement

MOE maintained that its authority to carry out on-site inspections is a sufficient monitoring mechanism. For example, MOE's records state periodic inspections of the Sheldrick Sanitation facility in Smithville were carried out beginning in 1995 and including 2002 (when the application was submitted). Furthermore, if any deficiencies in the operation or design of a waste site are detected, the necessary enforcement action will be taken.

Automatic Renewal of Certificates of Approvals

In its letter notifying the applicants of the Ministry's decision, MOE did indicate that although it is not currently planning to change the C of A procedures for transfer/processing sites, it may reassess this in the future "as part of a more general review of making licences and certificates of approval renewable."

Extent of Site Changes

Changes to a site are subject to the applicable municipal planning process and by-laws (e.g. building permits and discharges to sewers), and provincial legislative requirements (e.g. obtaining a Certificate of Approval).

Changes in the Management of Waste

Changes affecting the design or operation of existing waste management facilities or changes requiring the establishment of new ones can be readily accommodated within the existing regulatory process.

ECO Comment:

MOE's review of the application provided a response to all of the issues raised by the applicants regarding waste management regulations under the *EPA*. MOE's reasons for denying the application for review were acceptable given there is existing legislation, regulatory requirements and a framework for approval of transfer/processing sites. The ECO acknowledges that there are gaps in the waste management regulatory framework under the *EPA*. However, it is not clear whether these warrant a full-scale review. Furthermore, the applicants' primary concerns included "inappropriate siting" and issues that concern municipal requirements and bylaws and do not fall within the jurisdiction of the Ministry.

In 1998, MOE proposed to consolidate and revise existing waste management regulations. The intent of the comprehensive consolidated regulation was to provide clear consistent definitions, focus action on areas of highest environmental significance, increase waste diversion from landfills, improve compliance and set clear, protective environmental standards. Additionally, the proposed regulation was intended to take into consideration evolving waste management practices and incorporate administrative changes in support of an approvals process based on the level of environmental risk. However in 2002, the Ministry posted a decision stating it had decided not to undertake these reforms. It is conceivable that some of the reforms that were being contemplated as part of the 1998 proposal might have addressed some of the issues raised by the applicants. The ECO will track developments in this area and report on them in future annual reports.

Review of Application R2001018:
Need to Develop New Contaminated Site Guidelines
(Review Denied by MOE)

Background/Summary of Issues:
The applicants have requested this review based on their concerns, outlined in a separate application for investigation, that the Municipality of West Grey is building on the site of a former gas station and auto body shop without first taking the proper steps to ensure clean-up was appropriate. In their application for investigation, the applicants alleged that only cursory soil sampling was performed; no plan was developed to restore the site; and no verification of clean-up was performed. The applicants also alleged that contaminated soil removed from the building site was deposited at a landfill run by the Municipality of West Grey in contravention of the Township's Certificate of Approval (C of A). A review of the handling of their application for investigation (I2001004) by MOE is included on pages 238-240 of the supplement.

Based on these concerns, the applicants have requested a review of the Guideline for Use at Contaminated Sites in Ontario (the "Guideline") and of the need for a new Act. The applicants were concerned that the requirements for rehabilitating a contaminated site prior to building are "too lax" and that "no-one seems to be accountable." The applicants believe that s.6.1 of the *Environmental Assessment Act* should be amended or a new, more stringent policy (e.g., revised or new contaminated site guidelines) is required.

Ministry Response:
The MOE denied their application for review on the basis that the Guideline for Use at Contaminated Sites in Ontario was reviewed in developing the *Brownfields Statute Law Amendment Act (BSLAA)*, enacted in November 2001. In his letter, the MOE Director noted that further review of the Guideline is taking place as part of MOE's work to develop regulations under the *BSLAA* and that the applicants' concerns would be addressed.

In its response, MOE detailed each of the applicants' concerns and its rationale for rejecting this review. In particular, MOE noted that the *BLSAA* had been drafted based on MOE's review of the Guideline and that regulations are under development which incorporate the details of the Guideline into a regulatory framework, providing more certainty that brownfield remediation will comply with requirements. MOE specifically noted that regulated standards would be developed for site assessments, risk assessments, and soil, groundwater and sediment contamination. MOE also noted that the applicants' concern regarding the lack of accountability has been addressed by *BLSAA* with the introduction of a requirement for "qualified persons" who certify that a site meets the appropriate standards and with the requirement that filing of a record of site condition with MOE will be mandatory in certain situations.

ECO Comment:
MOE's response addressed the issues raised in this application for review. MOE's reasons for denying the application are acceptable given that there is new legislation which addresses the applicants' concerns and that supporting regulations are under development. According to MOE, these legal and regulatory changes will provide greater certainty of compliance and accountability. Furthermore, MOE advised the applicants that the proposed regulations would be posted on the Environmental Registry for public comment. Although the ECO recognizes that there are gaps in the current regulatory framework for contaminated sites, the ECO agrees with MOE that a separate review under the *EBR* is not necessary, especially in view of current policy development work on the *BSLAA*.

Review of Application R2002001: Regulatory Framework for the Release of Landfill Leachate to Waste Water Treatment Plants

(Review Conducted by MOE)

Background/Summary of Issues:
The applicants requested that MOE review the following laws and policies as they pertain to the release of landfill leachate to waste water treatment plants (WWTPs):

- *Ontario Water Resources Act*, including provisions for Certificates of Approval for WWTPs (section 53)
- Municipal Industrial Standards for Abatement under the *Environmental Protection Act*
- MOE's Policy 08-06, Policy to Govern the Sampling and Analysis Requirements for Municipal and Private Sewage Treatment Works

The applicants also requested that the ministry review the following as they pertain to public consultation on sewage/waste water treatment plant agreements:

- Model Sewer Use by-law
- Bill 107 – *Water and Sewage Services Improvement Act*

The applicants believe that the current legislative and/or regulatory mechanisms listed above, as they pertain to the regulation of landfill leachate discharges to municipal water treatment plants, are ill-equipped to deal with the issues of water quality and environmental health in an effective, efficient and appropriate manner. The applicants state that WWTPs are not designed to treat leachate. They also state that: pre-treatment and/or prior testing should be done before landfill leachates are discharged to WWTPs; all discharge agreements should be made public; and that overstrength or compliance agreements that allow leachate to exceed sewer use by-laws should not be permitted.

Ministry Response:
On August 2, 2002, MOE informed the applicants that it would undertake the requested review. Because it included a number of policy, legislative and regulatory components, the ministry expected to complete the review within 18 months.

ECO Comment:
The ECO will review the application in the 2003/2004 fiscal year.

Review of Application R2002002: *EBR* Exemption of Organic Soil Conditioning Sites

(Review Denied by MOE)

Background/Summary of Issues:
Municipal sewage sludges are often spread on Ontario farmlands as a form of waste management and also to take advantage of the plant nutrients, especially nitrogen and phosphorus, contained in these wastes. Before being spread on land, sewage sludges must be stabilized through

anaerobic or aerobic digestion to reduce odours and pathogens. Nevertheless, considerable public interest and concern is focused on the potential for odours and possible contamination of groundwater and surface waters with pathogens and other pollutants. Land spreading of sewage sludge is regulated by MOE through Certificates of Approval under Regulation 347 of the *Environmental Protection Act*. The technical term for these instruments is "organic soil conditioning site Certificates of Approval". However, there is no formal public consultation mechanism for these instruments, which have been exempted from the list of classified instruments under the *EBR* since the *EBR* was enacted in 1994. Therefore these instruments are not posted on the Registry for public comment. Moreover, Ontario residents do not have the right under the *EBR* to request reviews of these Certificates of Approval, nor can they request investigations if they believe conditions of such Certificates of Approval have been contravened.

In the summer of 2002, applicants submitted an *EBR* application requesting that MOE review the regulation that exempts all approvals for sewage sludge spreading from the *EBR*.

The applicants raised a number of concerns:

- sewage sludge may be legally "imported" from other municipalities and land applied in a host municipality, without the host municipality having any right to be notified or consulted;
- sewage sludge spreading may affect municipal matters such as land use planning, watershed planning, surface or ground water protection or citizen concerns. Therefore, the applicants argued, municipalities should have the right to be notified about sewage sludge disposal;
- sewage sludge with elevated copper levels might be "imported" and spread in a municipality, without the host municipality receiving any notification or rights to comment; and
- local residents are very concerned about the lack of notification and consultation prior to sludge spreading. Residents want their municipal council to take a stand on this issue, on behalf of the residents.

Ministry Response:
MOE denied this request for review, stating that the ministry was already reviewing all the policies surrounding sewage sludge management, including notification and consultation requirements. The ministry provided the applicants with a news release and backgrounder dated April 2002, confirming that the Ontario government was accelerating its review of current quality standards and testing requirements for sewage biosolids. The review was to address notification and consultation requirements for municipalities and others that receive nutrient materials for land application. According to the news release, the MOE committed to engage all stakeholders in its review. The ministry also assured the applicants that any environmentally significant changes to legislation or to MOE's policies on this matter would be posted on the Environmental Registry for public consultation.

Two initial proposals (both posted on December 2, 2002) were silent on the issue of whether municipalities should receive notice of sewage sludge spreading within their boundaries. The Ministry of Agriculture and Food posted its Draft Nutrient Management Regulations under the

Nutrient Management Act (RC02E0002). These regulations covered certain agronomic issues relating to the land application of sewage sludge, but not public consultation approaches. MOE also posted a proposal, entitled Stage 2 Regulatory changes regarding the Proposed Strategy for the Five-Year Phase-Out of the Land Application of Untreated Septage (RA02E0035). Because this proposal dealt with a different waste material, namely untreated septage, it also did not address the key concern of the applicants.

OMAF and MOE staff met with the ECO in January 2003 to discuss proposed regulations under the *Nutrient Management Act*. MOE staff described proposed changes to MOE's land application program for sewage sludges, suggesting the following approach:

- proponents intending to land-apply sludge would have to consult with intended host municipalities, and submit the results of the consultation to MOE with the C of A for land application;

- host municipalities would not have the right to refuse sludge application, but would have the right to submit comments during a brief comment period;

- MOE would inspect all proposed sites prior to approval and would notify host municipalities of MOE's decision on the C of A; and

- the applicant would be required to notify MOE, the host municipality and neighbouring residents one week before land application.

On April 25 2003, MOE followed through on this approach. The ministry posted a proposal for a regulation on the Registry (RA03E0017), outlining the above consultation and notification procedures for land application of sewage sludges and other non-agricultural waste. MOE provided a 30 day comment period on this proposal.

Prior to posting this proposal on the Registry for public comment, the ministry consulted on the issue through public meetings held at a number of locations in Ontario, as part of the larger consultation on regulations under the *Nutrient Management Act*. MOE received verbal feedback from stakeholders indicating that municipalities are not satisfied with the approach, and would prefer the right to refuse sludge applications outright. On the other hand, sewage sludge haulers have concerns with the obligation to notify neighbours in advance of land application, arguing that it would result in disputes and the need for negotiations in many cases.

ECO Comment:
This is the second time that Ontario residents have requested a review of O.Reg. 681/94 under the *EBR*, which exempts Cs of A for land application of sewage sludge from being posted on the Environmental Registry. The first case is described in ECO's 2001/2002 Annual Report, on page 210 of the Supplement. MOE has denied both requests for review.

The ministry was justified in denying this application for review, since the ministry was already reviewing this issue in conjunction with consultations on the *Nutrient Management Act* and its regulations. MOE reiterated to the applicants that the ministry would review the notification and consultation requirements for municipalities and others that receive sewage, biosolids or paper sludges, and that public consultation would occur through the Registry. The ministry carried through on this commitment.

There is clearly a high degree of public interest in the potential environmental impacts of spreading sewage sludge on farmland. Public confidence in the regulatory framework for this activity would be strengthened if these certificates of approval were prescribed as instruments under the *EBR*. This would provide the general public with rights to comment, and would provide Ontario residents with the right to request reviews and investigations related to specific instruments. The ECO recommended this approach to OMAF and MOE in February 2002, as part of a more general recommendation to prescribe the *Nutrient Management Act* and its regulations under the *EBR*. The ECO will review MOE's decision on RA03E0017 once it is posted on the Registry.

Review of Application R2002005:
Septage Disposal Rules
(Review Denied by MOE)

Background/Summary of Issues:

In November 2002, the ECO received an application requesting a review by the Ministry of the Environment (MOE) of the need for a new regulation under the *Environmental Protection Act (EPA)* governing the practice of septage disposal. Septage refers to human waste from septic systems, holding tanks, portable toilets and other aerobic systems, which may or may not be treated before disposal. Specifically, the applicants requested that a regulation be enacted which clearly sets out responsibilities at all stages of the septage disposal process, starting from the point when the septic/holding tank is emptied, to the establishment, operation and management of septage treatment or disposal facilities. Several stakeholders would thereby be implicated in this process, including: septic system users; septage haulers; disposal site landowners/operators; municipal waste managers; local health officers; as well as MOE and the Ministry of Agriculture and Food (OMAF).

The ECO also forwarded a copy of this application to OMAF because it is responsible for the recently enacted *Nutrient Management Act (NMA),* which may ultimately have regulations, covering septage hauling, spreading and disposal (see pages 68-72 of this year's annual report and pages 29-38 of the supplement).

Four approved septage disposal methods currently exist within the province, these are: municipal sewage treatment plants; waste stabilization lagoons; approved septage land application sites; and waste disposal sites that are approved to receive septage, including landfills. In the wake of increasing public and industry concerns with the potential health and environmental impacts associated with the land application of untreated septage, the province has, under the *NMA*, proposed a strategy for the 5-year phase-out of the land application of untreated septage (RA02E0035).

At the time that this application was submitted, the draft septage strategy was not yet available. However, the applicants were aware that MOE was proposing to phase out the issuing of Certificates of Approval (Cs of A) for the land application of untreated septage. The knowledge of this eventual ban formed the basis of many of the applicants' concerns with the current lack of legislated responsibility for septage disposal. In particular, the applicants were concerned that non-legislated solutions such as private-public partnership arrangements between municipalities, septage haulers and other private businesses, would not work.

The applicants provided several reasons why they believed there is a need for a review. They were concerned with MOE's moratorium on the land application of septage during winter months (on frozen or snow-covered ground) introduced in 2000. The applicants believed that MOE did not adequately consider the consequences of imposing this moratorium, which in effect left septage haulers with little or no interim alternative disposal options. According to the applicants, many haulers approached municipal councils and MOE with concerns about where to dispose of the septage accumulating over the winter months. When little or no action was taken to provide or assist with the provision of temporary storage facilities or to construct winter septage facilities, some haulers were forced to resort to illegal dumping, according to the applicants. This illegal dumping has, according to the applicants, created a serious health and environmental issue.

The applicants were also concerned about the unclear legal framework with respect to municipal involvement. The applicants made specific reference to the *Municipal Act*. They expressed concern over the *Act's* handling of the collection and/or disposal of sanitary sewage but the lack of reference to septage. Additionally, the unwillingness of municipalities to accept responsibilities relating to septage disposal experienced by the applicants and by those in the industry with whom they have been associated, (e.g. the Ontario Association of Sewage Industry Services or OASIS) was of major concern to the applicants.

Most septage haulers, according to the applicants, are small (rural) businesses, which cannot put up the capital costs associated with the construction of a septage treatment facility. The liability insurance and financial assurance for such a venture make it cost prohibitive. Those haulers who currently own septage disposal properties are reluctant to construct septage treatment facilities to deal with the impending ban and the current winter spreading moratorium. They fear that the province will eventually decide to encourage municipally-operated and government funded treatment facilities and programs. The tax revenue-supported costs and financial assurance and liability costs incurred by the public facility would, it is feared, put the private facilities out of business. The applicants articulated that these fears mean that under the current situation, neither septage haulers nor other private sector businesses will proceed with the construction of new facilities. In the absence of a clear legal framework, the applicants felt that any partnership arrangement will not be supported by municipalities, haulers or private business interests. For this reason and those presented above the applicants felt that the responsibility for septage disposal needed to be legally addressed in a new regulation under the *EPA*.

Ministry Response:
In the decision notice, the director of MOE's Waste Management Policy Branch explained that the ministry had denied a review because of the ongoing review of the septage strategy, which was released in early December 2002 under the *NMA*. More specifically, the ministry indicated that MOE is currently developing a strategy for the implementation of the 5-year phase out committed to by that ministry and OMAF. "As part of the process, the Ministry is reviewing the roles and responsibilities of the stakeholders involved in the land application of untreated septage."

Generally speaking the ministry responded to the main concerns about the roles and responsibilities of stakeholders but it did not provide much detail on the options being considered by the current review. For example, the rationale did not provide information on the proposed components of the strategy for the 5-year phase-out of the land application of untreated septage, especially those highlighted within the Environmental Registry proposal notice (RA02E0035), which deal with the role of municipalities in the septage disposal process. The septage strategy proposes that municipalities be required to prepare a local strategy on how they will manage untreated septage produced within their area. The rationale also did not address the applicants' main request that roles and responsibilities be clarified and set down in regulation under the *EPA*.

The ministry response indicated that the Registry would be used to inform of any future public comment periods for significant proposals related to the current strategy review. The rationale also provided a ministry contact for the applicants to direct any further inquiries/concerns.

The decision not to review was made by the director of the Waste Management Policy Branch. This branch is directly involved in the overseeing of the land application phase-out. However, this does not appear to have played a determining factor in the decision to deny the review, as it is well publicized that MOE and OMAF are both involved in the regulatory initiative under the *NMA*, which proposes to directly address the primary concerns of the applicants.

ECO Comment:
MOE acted within its technical rights under the *EBR* to deny this review. The roles and responsibilities of the stakeholders involved in the septage disposal process were already being reviewed by the ministry as part of the regulatory initiative under the *NMA*. The ministry failed however to directly respond to the applicants' request for a new regulation under the *EPA*, nor did it describe how the proposed Strategy for the 5-year phase out of land application of untreated septage intends to bring in such regulatory reforms. MOE should have referred the applicants to the Environmental Registry proposal notice (RA02E0035), which provided more detail on the proposed septage strategy, and in particular highlighted the proposed changes to the level of responsibility local municipalities will be required to take on.

While it is true that these particular applicants were knowledgeable of the current consultative processes relating to the release of the draft septage strategy, the ministry was remiss in not pointing out to the applicants that the opportunity to comment under the *EBR* public comment period was still available at the time the decision to deny the application for review was delivered. As well, MOE did not directly address the concern of the applicants that many haulers were still at the time of this application left with little if any interim alternatives to dispose of septage accumulating over the winter months.

The ECO will be closely monitoring the progress of the regulatory changes currently being developed by MOE and OMAF. In particular the ECO will be monitoring the implementation of the proposed requirement of the development of municipal septage strategies. Good consultation with municipalities and the septage hauling industry will be key to resolving this issue. In the interim it appears the threat of illegal septage spreading may be a real concern if the province or local municipalities fail to assist with the provision of temporary winter septage disposal/treatment facilities. Indeed in Bruce County alone, MOE reported five cases of serious Certificate of Approval violations by sewage waste haulers, following a province-wide inspection blitz in the summer of 2002. The same report also indicated that only four of the fourteen haulers in Bruce Country took septic tank waste to municipal sewage treatment plants. As well, the inspection revealed that most haulers throughout the province did not have winter storage, despite the moratorium on winter spreading.

Additionally, as an update, MOE posted on the Environmental Registry on April 25, 2003 a proposal for the ban on the land application of untreated portable toilet waste. The proposal is a follow-up to the Proposed Strategy for the Five-Year Phase-out of the Land Application of Untreated Septage. This most recent proposed draft regulation will ban the land application of untreated portable toilet waste by July 31, 2003. Treated portable toilet waste, however, may continue to be land-applied if it meets the requirements in the draft regulation.

Private septage haulers perform a vital function in rural Ontario. No level of government is proposing to take over this function. Therefore, if MOE intends to rely on private septage haulers, MOE has a responsibility to construct a public policy structure for septage management in which private septage haulers can perform their function and make a living without compromising environmental protection or violating environmental laws.

Review of Application R2002008:
Prescribing the Ministry of Finance under the *EBR*
(Review Accepted by MOE)

Background/Summary of Issues:
This application requested that MOE review O. Reg. 73/94, the General Regulation under the *EBR*, to determine whether the Ministry of Finance should be added as a prescribed ministry under the *EBR*. When the *EBR* was first proclaimed in February 1994, the Ministry of Finance was listed as a prescribed ministry and was included in O. Reg. 73/94. In November 1995, the Ministry was removed from the list of prescribed ministries when the MOE passed O. Reg. 482/95. Thus, MOF no longer was required to consider its Statement of Environmental Values and post notices on the Registry inviting public comments on proposed decisions for environmentally significant Acts and policies before the Minister of Finance made decisions on these matters.

The applicants believe that the removal of the Ministry of Finance from the *EBR* has had drastic consequences for environmental protection in Ontario because MOF no longer has to consider the environmental consequences of its decisions. The applicants believe this has contributed to wide-scale staff cuts at the MOE. Moreover, the applicants believe that the removal of MOF from O. Reg. 73/94 has had a negative impact on the financing and support of environmental education and outdoor education in Ontario by the Ministry of Education. In 2000, one of the applicants submitted a request that MOE review O. Reg. 73/94 to determine whether the Ministry of Education should be added as a prescribed ministry under the *EBR*. While his request was denied, the ECO wrote an article about the issue of prescribing the Ministry of Education under Developing Issues in the 2000/2001 ECO annual report.

Ministry Response:
This Application for Review was sent to MOE in early January 2003.

ECO Comment:
The ECO will review the handling of this application in its next annual report.

Review of Application R2002010: Regulatory Regime relating to Logging Roads, Access Controls and the Preservation of Roadless Wilderness Areas
(Application Denied by MOE)

Background/Summary of Issues:
Sierra Legal Defense Fund submitted this application on behalf of the Algonquin Wildlands League along with their field report *The Road Less Travelled?* The report describes concerns about the impacts of logging roads and in particular the increased access to the forest they provide for other uses such as motorized hunting and fishing. The applicants conducted a field study at the Temagami Forest Management Unit to investigate the effectiveness of MNR's strategies to restrict motorized public access to special management areas in order to preserve remote forest values. Field visits and MNR inspection records showed high levels of access control violations.

The applicants requested a review of all existing laws, policies, regulations and instruments addressing the building of logging roads and the planning of logging road networks, access control issues and the preservation of roadless wilderness areas. They also requested the ministries review the need for new laws, policies, regulations and instruments to incorporate into Ontario's forestry management practices the recommendations provided in *The Road Less Travelled?* The application was sent to both MNR and MOE. The applicants requested that MOE incorporate the recommendations into its review of the MNR's Timber Class EA Review which was underway at the time of the application.

Ministry Response:
MOE denied the application for review on May 5, 2003.

ECO Comment:
The ECO will review this application in the 2003/2004 reporting year.

Review of Application R2002011:
Open Freshwater Netcage Aquaculture Operations – Water Quality
(Review Undertaken by MOE)

Background/Summary of Issues:
In February 2003, the applicants submitted an application for review of existing policies and regulations for open netcage aquaculture as carried out in Georgian Bay. Since the application included policies and regulations administered by three ministries, the ECO forwarded the application to MOE, MNR (R2002012) and OMAF (R2002013). Information regarding R2002012 and R2002013 can be found on pages 229 and 185 of the supplement respectively.

The applicants have requested a review of the policies and regulations related to water quality and open netcage aquaculture as carried out in Georgian Bay. The applicants noted that the Ministry of the Environment has implemented the "Operational Monitoring of Aquaculture Operations" under the *Ontario Water Resources Act* in order to regulate the amount of pollution discharged from open netcage aquaculture operations. The applicants alleged that the background level of Total Phosphorus established by MOE for open Georgian Bay waters of 10 micrograms per litre (μg/L) is too high – Environment Canada and others have reported a background level of 3 to 5 μg/L. The applicants cited sections 28, 30 and 33 of the *Ontario Water Resources Act* which relate to the discharge of polluting material into water as the basis for their concern.

Ministry Response:
MOE has committed to undertake a review with an estimated completion date of November 2004.

ECO Comment:
ECO will review the handling of this application when MOE completes its review.

Review of Application R2002014:
Request that the Fish and Wildlife Conservation Act be Prescribed under the *EBR*
(Review Undertaken by MOE)

Background/Summary of Issues:
The applicants requested that O. Reg. 73/94 under the *EBR* be updated by amending the reference to the *Game and Fish Act* to read the *Fish and Wildlife Conservation Act* (*FWCA*), and to prescribe the *FWCA* for the purposes of applications for review under the *EBR*.

Ministry Response:
MOE is conducting the requested review as part of a larger review of O. Reg. 73/94 that is currently underway. It is expected that this review will be completed by June 30, 2003.

ECO Comment:
The ECO will review the application in the 2003/2004 annual report.

MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

Review of Application R2002004:
Planning Act and Agricultural Land Conservation
(Review Denied by MAH)

Background/Summary of Issues:
In October 2002, the Preservation of Agricultural Lands Society (PALS) requested a review of the *Planning Act*. The applicants believe that amendments to the statute made in 1996 weakened its ability to protect the environment. The applicants state that the deficiencies of the *Planning Act* have permitted land fragmentation and urban sprawl to occur, contrary to the government's own provincial interests set out in the Provincial Policy Statement (PPS). PALS states that these land-use decisions not only cause the loss of agricultural lands, but they also cause the loss of natural heritage features and reduce biodiversity.

The applicants do acknowledge that MAH is currently reviewing the PPS, as required by the *Planning Act*. However, PALS argues that changes to the PPS alone will do little good as planning authorities, such as municipalities, will still not be unequivocally obligated to implement the PPS. The applicants believe that in order to protect the environment the 1996 changes to the legislation, especially those related to the implementation of the PPS, must be reversed or at least reconsidered.

Prior to 1983, the *Planning Act* did not contain clear provisions on how decision-makers should interpret provincial policy. Subsequently, between 1983 and 1994, the *Planning Act* required that decision-makers "shall have regard to" provincial policy. Amendments to the legislation in 1994, and proclaimed into force in 1995, required that all planning decisions be "consistent with" policy statements. However, this phrasing was deemed to be too inflexible by some developers and municipalities. The legislation was then amended back to its original language in 1996 with Bill 20, the *Land Use Planning and Protection Act*, which allowed for greater municipal discretion and less provincial control. The *Planning Act*, after 1996, states that municipalities, provincial ministries, the Ontario Municipal Board (OMB), and other decision-makers must "have regard to" policy statements.

One of the functions of the PPS is to guide agricultural policies in Ontario's land-use planning system. It states that prime agricultural areas "will be protected for agriculture. Permitted uses and activities in these areas are: agricultural uses; secondary uses; and agriculture-related uses. Proposed new secondary uses and agriculture-related uses will be compatible with, and will not hinder, surrounding agricultural operations." Further, the PPS discourages new lot creation in prime agricultural areas and an area may be excluded from prime agricultural areas only if it meets certain criteria.

PALS believes that many municipalities are not properly implementing these policies. The applicants also assert that the 1996 amendments to the *Planning Act* weakened the ability of municipalities to enact stricter controls on development than the PPS. As illustration of its argument, PALS cited a recent OMB case in which the presiding OMB member ruled that a municipality could not impose criteria to protect agricultural lands, threatened by a golf course expansion, that were so prohibitive as to be contrary to the PPS. The OMB member ruled that no alternative site met the needs of the golf course in question. The golf course was then granted approval to develop an area that had been zoned as prime agricultural lands so that it could remain "au courant" with industry standards.

Ministry Response:
MAH concluded that a review of the *Planning Act* was not warranted at this time. The ministry stated that the statute was the subject of significant amendments in 1995 and 1996, which included an extensive public consultation process. MAH stated that these changes were enacted as the previous planning system was perceived to be too slow and inefficient; municipalities required greater autonomy and responsibilities; the PPS was seen to be too prescriptive and inflexible; and that the implementation guidelines for the policy statements were too long.

The ministry stated that the *Planning Act* obliges the consideration of the PPS through its "shall have regard to" provision. The ministry stated that this language allows decision-makers to implement the PPS in the context of other planning objectives and local circumstances. MAH asserts that decision-making bodies should be prepared to demonstrate why specific provisions of the PPS are not applicable if they are not implemented. It is the position of the ministry that most municipalities take the PPS seriously and provide for its implementation.

MAH asserts that this policy-led planning system provides strong protection for agricultural lands. It is the position of the ministry that the PPS discourages urban sprawl and promotes the efficient use of land and resources. MAH did tell the applicants that it is currently reviewing the PPS, as required every five years by the *Planning Act* and that any necessary changes to the policies will be considered. The ministry also stated that it is currently conducting public consultations on Smart Growth that may result in changes to provincial policies or legislation.

The ministry indirectly referred to section 67 of the *Environmental Bill of Rights* (*EBR*) in denying this application for review. MAH's main rationale was that the amendments made to the *Planning Act* in 1995 and 1996 involved a significant consultation process that has resulted in a planning system that provides "tough environmental protection and protection of provincial resources." The ministry did refer to the current review of the PPS and the province's on-going Smart Growth initiative, but it did not use them as grounds for denying the application.

MAH met the technical requirements of the *EBR* in handling this application. The application was filed on October 29, 2002 and the ministry acknowledged its receipt on November 6, 2002. The ministry informed the applicants of its decision on December 19, 2002. The application for review appears to have been handled by two of MAH's Assistant Deputy Ministers.

ECO Comment:
The ECO agrees with the ministry's decision to deny this application for review. However, the ECO does not concur with the ministry's rationale for denying this review. While MAH does discuss the current reviews of the PPS and Smart Growth in its denial of this application, it does not use them as grounds for turning down the application. Rather, the ministry stated that the *Planning Act* was the subject of extensive public consultations in 1995 and 1996, and that it is satisfactory in its present form. The ECO believes that the applicants raised legitimate concerns about Ontario's planning system, but these concerns may best be addressed in the context of the review of the PPS and consultations on Smart Growth.

Ontario's planning system is governed by a policy-driven framework. The PPS operates under the *Planning Act* to provide detailed direction on matters of provincial interest related to land-use planning and development. The act requires a review of the PPS every five years. In July 2001, MAH formally launched its review. The ministry's Environmental Registry notice for the PPS states that the review is, in part, designed to identify any implementation issues that may need to be addressed and the extent to which it is effective in application at the local level.

The ministry states that the sufficiency of the "shall have regard to" language of the *Planning Act* has been raised by stakeholders in the review of the PPS. As such, the concerns of the applicants are within the scope of the ministry's current review of the PPS. It has also been raised as a significant issue during the public consultation on Smart Growth. The ECO believes that MAH should have told the applicants that their concerns are being addressed through the on-going reviews of the PPS and the public consultations on Smart Growth.

MAH's Municipal Performance Measurement Program, begun in 2000, is of particular relevance to this application for review. It is a ministry initiative designed to provide the public with information on service delivery and municipalities with a tool to improve those services over time. Under the authority of the *Municipal Act*, the ministry requires municipalities to collect data to measure their performance in ten core municipal service areas and subsequently report this information. Land-use planning is one of the ten service areas that municipalities are required to report on, including:

- Percentage of new lots, blocks and/or units with final approval which are located within settlement areas;
- Percentage of land designated for agricultural purposes which was not re-designated for other uses during 2002;
- Percentage of land designated for agricultural purposes which was not re-designated for other uses relative to the base year of 2000;
- Number of hectares of land originally designated for agricultural purposes which was redesignated for other uses during 2002;
- Number of hectares of land originally designated for agricultural purposes which was redesignated for other uses since January 1, 2000.

The ministry has collected two years of data under this program. It would be helpful for the ministry to analyse and report on this data as part of its review of the PPS. The ministry should also supplement this limited information with an evaluation of historical land-use changes, such as by using satellite image data. The ECO hopes that MAH will use this information to inform its review of the PPS and Smart Growth.

Many of ECO's previous annual reports have raised concerns about Ontario's planning system, particularly with regard to urban sprawl and the protection of natural heritage. The ECO believes that the PPS is applied by municipalities and the OMB in an inconsistent manner. For example, the OMB's interpretation of the "have regard to" language of the *Planning Act* and the extent to which the PPS is implemented may vary depending upon which OMB member is presiding. As the ECO observed in its 2001/2002 annual report, the review of the PPS must examine how the policies have been implemented. As well, the review of the PPS inherently requires an assessment of the "have regard to" provision and the enactment of any necessary changes to the *Planning Act*.

MINISTRY OF NATURAL RESOURCES

Review of Application R2002003:
Lakes and Rivers Improvement Act
(Review Denied by MNR)

Background/Summary of Issues:
In October 2002, two northern Ontario residents submitted an application for review of the *Lakes and Rivers Improvement Act* as it relates to water management planning. The applicants' submission cited the condition of a northern Ontario lake during July 2002 at which time they had witnessed the nearly complete draining of Rocky Island Lake, apparently as a result of water level reductions by a waterpower generating facility. The applicants also filed an *EBR* application for Investigation (I2002015) which is reviewed elsewhere in this section of the Supplement.

The applicants observed that extreme lowering of water levels of Rocky Island Lake had killed game fish such as pickerel, destroyed habitat, and endangered wildlife dependent on the biota in the lake. The draining of the lake disrupted riparian activities and public enjoyment, and made boat launch impossible. The applicants were also concerned of danger to moose and other wildlife which could become entrapped in the exposed muddy bottom material.

The applicants stated that the *Lakes and Rivers Improvement Act (LRIA)* failed to prevent the "draining" of Rocky Island Lake during the summer of 2002. Hence, the Act had not achieved its stated purposes, which include provision for: "the protection and equitable exercise of public rights in or over the waters of the lakes and rivers of Ontario", "the protection of the interests of riparian owners", and "the management, perpetuation and use of the fish, wildlife and other natural resources dependent on the lakes and rivers". The applicants specifically referred to s. 16, 17, and 23 of *LRIA* in their application.

The applicants noted in the application the June 2002 amendments to the *Lakes and Rivers Improvement Act* (s. 23) which give the Minister the authority to order operators of waterpower sites to prepare Water Management Plans (see the Decision Review on Water Management Planning Guidelines (WMPGs) in this Supplement). The applicants were expressed concern with the phrase "the Minister may order", contained in the *LRIA* section, as they felt that water level controls should be mandatory, particularly in light of recent de-regulation and changes in ownership and operation of hydroelectric facilities including those influencing Rocky Island Lake.

Geographic Context
The Mississagi River is located in the Sudbury and Algoma Districts north of Lake Huron, and originates at Biscotasi Lake, located 110 km northeast of the City of Elliot Lake. From this point the Mississagi River runs southwest through Mississagi River Provincial Park to Rocky Island Lake, which is the first section of the river system regulated for hydroelectric power production. Further south, the river passes through more parkland, then through a series of four hydroelectric generating stations and a number of lakes and reservoirs, prior to emptying into the North

Channel of Lake Huron just west of the Town of Blind River. The river supports a range of aquatic ecosystems and human uses, including swimming, canoeing, angling, seasonal and permanent residences and tourism operations.

Between 1950 and 1970, four hydro-electric generating stations with a combined generating capacity of 488 MW were built on the Mississagi River. Four water storage dams – Control Dam, Side Dam No. 1, Side Dam No. 2, and Round Lake Dam – provide storage for water to facilitate the peak demand period operation of the generating stations. Rocky Island Lake is the primary reservoir for water for hydroelectric production on the Mississagi River.

Brascan Corporation purchased all four of these generating stations and related structures from Ontario Power Generation in May 2002. Great Lakes Power /Mississagi Power Trust, a subsidiary company of Brascan Corporation, operates these facilities. The four generating stations along the river are operated as a cascading system with each facility dependent on flow released from upstream operations. The generating stations are operated as peaking facilities, which means that the stored water in their reservoirs is released for production during peak electricity demand hours.

Very shortly after the ownership of these facilities changed hands, a long heat wave caused a surge in electricity demand and pushed hydroelectric prices upward sharply. Demand pushed all Ontario facilities, including those on the Mississagi, to produce as much power as continuously as possible. As a result of operations, the water level of Rocky Island Lake continued to drop until it was nearly empty in July 2002. Apparently no overall operational plan existed prescribing a sustainable flow rate that would accommodate power production while leaving the Rocky Island Lake reservoir at a level that would allow fish survival, water resource use for recreation and preserve shoreline habitat.

Ministry Response:

In determining whether the application warranted a review under the *EBR*, MNR considered several of the criteria specified in s.67 of the *EBR*. The key argument MNR made in denying the review was that it recently undertook a review of *LRIA* with resulting amendments to the Act and production of new Water Management Planning Guidelines for Waterpower (WMPGs).

MNR notes that s. 23 of the *LRIA* was amended to add the following subsection:

> (1.1) Where a dam or other structure or work has heretofore or is hereafter constructed on a lake or river and the Minister considers it necessary or expedient for the purposes of this Act, the Minister may order the owner of the dam or other structure or work to prepare a management plan for the operation of the dam or other structure or work in accordance with guidelines approved by the Minister and to operate the dam or other structure or work in accordance with the plan.

The guidelines which are referred to in this section, are the subject of a separate Decision Review which is reviewed in this supplement and in the ECO annual report. The ECO review is extensive and should be taken into account when considering MNR's response to this application.

In its response MNR informs the applicants that a Water Management Plan produced for the Mississagi River system, which includes Rocky Island Lake, will be complete by December 2006. In the interim period, MNR Sault. St. Marie District has established a committee of stakeholders charged with identifying issues resulting from the recent operation of the Mississagi river system, and making recommendations that would minimize impacts.

ECO Comment:
The Rocky Island Lake incident underscores the potential for environmental problems resulting from changes in ownership of hydroelectric facilities. In this case, impacts were dramatic, resulting from a combination of high energy demands during a long summer heat wave, and lack of an operating plan which also protected the aquatic environment. Against this backdrop, MNR's introduction of water management planning has been very timely. Based on our review of the recent initiatives taken by MNR, the ECO believes that the new WMPGs and the regulatory authority for to implement them, have the potential to prevent such future incidents.

The ECO commends MNR for taking measures following this incident to prevent a recurrence. Although the official Water Management Plan (WMP) for the Mississagi River will not be in place until December 2006, MNR district staff have facilitated discussions among stakeholders aimed at developing a satisfactory interim water management strategy. MNR will need to closely monitor the implementation of this interim plan.

MNR's reply to the applicants was received approximately thirty days later than the sixty days specified in the *EBR*. Although MNR largely addressed the applicants' concerns in their reply, it did not adequately address the question the applicants raised concerning the Minister's discretion on implementing s.23.1 of *LRIA*. In posting its policy decision on the Water Management Planning Guidelines for Waterpower on the Registry, MNR responded to similar concerns by commenters. MNR stated that it had clarified the Guidelines to indicate the "all waterpower facilities under the province's jurisdiction will be required to prepare such plans". MNR should have informed the applicants of this clarification.

The ministry did, however, take the additional initiative of bringing to the attention of the applicants the planned development of a WMP for the Mississagi River system. An information notice describing this WMP was posted on the Registry on January 29, 2003 (XB03E2002). This initiative lends substance to MNR's promises and demonstrates its commitment locally.

The ECO also notes that MOE's framework for the issuance of Permits to Take Water (PTTWs) is currently under review and is subject to changes under a proposed *Ontario Water Resources Act* regulation currently on the Registry. (RA03E0009). However, PTTWs issued to hydroelectric power producers are exempt from the requirement to give public notice on the Registry under s.32 of the *EBR*.

The ECO will monitor the interim water management plan development for the Mississagi River system. Particularly if 2003 is a dry year and hydroelectric demand is again high, prevention of a recurrence of the summer 2002 conditions in Rocky Island could represent a real test of the interim plan arrangement.

Review of Application R2002006:
Need to Classify the Eastern Wolf on MNR's VTEEE List and the Need for a Provincial Wolf Conservation Strategy
(Review Denied by MNR)

Background/Summary of Issues:
The Ottawa Valley Chapter of the Canadian Parks and Wilderness Society (CPAWS) and Sierra Legal Defence Fund (SLDF) filed an application for review requesting that MNR review its "indeterminate" classification of the eastern wolf (*Canis lycaon*) on its Vulnerable, Threatened, Endangered, Extirpated or Extinct Species (VTEEE) list. Once a species is classified with a level of risk on the VTEEE list, it may then merit protective measures under other government policies and legislation, such as under the *Endangered Species Act* and the *Planning Act*.

The applicants are also requesting that MNR consider the need of creating a provincial conservation strategy for both eastern wolves and gray wolves (*Canis lupus*). CPAWS and SLDF assert that the ministry's management of these two species should be based on modern scientific principles to ensure that Ontario's biological diversity is maintained.

The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) estimates the number of eastern wolves at 2,000 individuals spread among approximately 500 packs, found mainly in the Great Lakes and St. Lawrence regions of Quebec and Ontario. (These estimates of range and population size are disputed by MNR). The highest population densities are reportedly found in southwestern Quebec and southeastern Ontario, particularly in Algonquin Provincial Park. The eastern wolf has been extirpated from the more populated, southern portions of its range due to the loss of habitat.

The gray wolf is found in northern Ontario. They have a larger build than eastern wolves, which are more like coyotes in appearance. Both gray wolves and eastern wolves are recognized as keystone species due to their disproportionately important role as top predators in the functioning of ecosystems. Unfortunately, little data exist on the populations and ranges of either of these species across Ontario.

In May 2001, COSEWIC identified the eastern wolf as a national "species of special concern." MNR has revised its provincial VTEEE list several times since then, but the ministry has failed to upgrade the status of the eastern wolf from "indeterminate" to "vulnerable." As much of the information about the species that was used to determine the national listing was based on Algonquin Provincial Park's eastern wolf population, the applicants believe that the provincial listing of "indeterminate" does not accurately reflect available research.

In March 2002, the Director of MNR's Fish and Wildlife Branch told the applicants in writing that MNR concurs with the national assessment of the eastern wolf and that the ministry intended to upgrade its status to "vulnerable" on its next revision of the VTEEE list. However, in September 2002, MNR updated its VTEEE list but the status of the eastern wolf remained as "indeterminate." Unlike previous revisions, this update of the VTEEE was not posted on the Environmental Registry for public comment. MNR states that public comment was not warranted as any changes were solely administrative in nature.

The applicants contend that Ontario's current system of wildlife management cannot be relied upon to protect wolf populations. Schedule 1 of the *Fish and Wildlife Conservation Act* (*FWCA*) currently classifies wolves as fur-bearing mammals, allowing an almost year-round open season for hunting and trapping with no bag-limits across most of the province. The legislation also does not distinguish between the province's eastern wolves and gray wolves. CPAWS and SLDF are requesting that MNR classify the eastern wolf as a "specially protected mammal" under the *FWCA*. Specially protected mammals listed under Schedule 6 of the *FWCA* are protected from hunting and trapping.

CPAWS and SLDF are concerned that there are no reporting requirements under the *FWCA* or its regulations for gray wolves or eastern wolves to help assess population numbers and species distribution. The applicants note that other species, such as deer (*Odocoileus virginianus*) and moose (*Alces alces*), are carefully managed through season restrictions, quotas, and tag requirements. Further, the den sites of bears (*Ursus americanus*) are protected under the *FWCA*. The applicants believe that this approach to the management of these species is out of recognition that their populations are not unlimited and cannot sustain unlimited hunting. The applicants argue that the current legislative and policy structure as it pertains to wolves incorrectly assumes that their populations can sustain unlimited harvesting.

The applicants contend that the lack of reporting requirements has contributed to the mismanagement of Ontario's wolf populations. Information obtained by the applicants under the *Freedom of Information and Protection of Privacy Act* reveals that the ministry possesses little quantitative data for Ontario's wolf populations and that management decisions are being based on speculation. The applicants argue that MNR's lack of province-wide data had led to the mismangement of wolves, threatening their viability. In the limited cases of where scientific research has been carried out, such as in Algonquin Provincial Park, wolf populations are declining due to human-caused impacts.

CPAWS and SLDF are concerned that MNR is actively promoting the recreational killing of wolves. Promotional material issued by MNR to encourage out-of-province visitors describes wolf-hunting as an "exciting" recreational opportunity. The applicants contend that MNR's encouragement to hunt these species is inappropriate given that the ministry has negligible data on them and that the eastern wolf is nationally listed as a species at risk. In February 2002, the applicants did request that MNR withdraw this promotional material, but the ministry chose not to do so. In response to concerns raised by the ECO in its 2001/2002 Annual Report, it is MNR's position that "there is no evidence that the current level of wolf harvest poses a threat to wolves at the provincial scale."

The applicants argue that several of MNR's wildlife management polices are based on out-dated principles and have a harmful impact on the sustainability of Ontario's wolf populations. The applicants contend that many of these policies are not based on a modern understanding of the biological sciences. MNR's Moose Management Policy, last revised in 1980, directs ministry staff to reduce wolf populations on a selective basis to increase the numbers of moose available for hunting. MNR's Control of Mammalian Predators policy, last revised in 1982, directs ministry staff to eliminate predators that are significantly affecting wildlife at every opportunity. The applicants believe that protected areas should play a fundamental role in ensuring viable wolf populations, as demonstrated by the ministry's decision to enact a wolf-hunting moratorium until 2004 in the townships surrounding Algonquin Provincial Park. As hunting is permissible in a large number of Ontario's protected areas, the applicants believe that inadequate protection is afforded by the governing legislation and policies.

In the absence of province-wide data, the applicants contend that MNR is not respecting its commitment to the precautionary principle through its existing policies and practices. CPAWS and SLDF believe that an effective wolf conservation strategy should contain the following objectives:

- ensure the long-term survival and flourishing of both of Ontario's wolf species;
- retain natural predator-prey dynamics across the Ontario landscape;
- retain wolf pack structure, function and behaviour; and,
- retain natural wolf population structure and function across Ontario.

CPAWS and SLDF believe that MNR's current approach to the management of Ontario's wolves is inconsistent with its Statement of Environmental Values (SEV) and its strategic plan, Beyond 2000. The applicants note that MNR has committed in its SEV to exercise caution and special concern for natural values in the face of uncertainty. The applicants argue that, by failing to take the necessary measures to conserve Ontario's wolf populations, the ministry is not following its mandate as the steward of the province's wildlife. Further, the applicants assert that it is in the public interest to conserve Ontario's wolf populations due to the consistent public support for the species. CPAWS and SLDF contend that MNR should undertake this review, as harm to the environment is occurring due to insufficient action on the part of the ministry.

Ministry Response:
MNR denied this application for review. MNR stated that a review was not warranted as the ministry has enhanced its species at risk program through the Ontario Living Legacy initiative. The ministry also stated that it is already reviewing its VTEEE list, so there is no need for another review on the same topic.

MNR stated that a provincial wolf conservation policy is not warranted. The ministry claimed that Ontario's wolf population is considered healthy across their range. MNR also asserted that there is no evidence that the present level of hunting and trapping is posing a threat to their sustainability.

The ministry stated that it would consider introducing legislative devices, such as restricted or closed seasons, if and where control of the harvest of gray wolves or eastern wolves becomes necessary to ensure their long-term conservation. MNR stated that it is an active partner and co-funder of the genetic work that has shown the eastern wolf as genetically distinct from the gray wolf, and of ongoing work to identify the distribution of the various canid species across Ontario.

MNR did not adhere to s. 70 of the *Environmental Bill of Rights* (*EBR*) that requires the ministry to provide notice of a decision to the applicants and the ECO within 60 days of receipt of the application. MNR received the application for review on November 14, 2002. The ministry subsequently informed the applicants that a decision would be made by January 31, 2003. However, MNR did not provide its decision to the applicants and the ECO until April 14, 2003, more than 90 days after the *EBR* deadline.

The applicants complained to the ECO about this delay by the ministry in providing a decision. MNR was also late in providing a decision on a different application for review at approximately the same time. In this case, the ECO is concerned that MNR did not adhere to the legislative requirements of the *EBR* and failed to provide a timely response to applicants.

ECO Comment:
The ECO disagrees with MNR's decision to deny this application for review. The ministry stated that a review of its VTEEE list to classify the eastern wolf was not warranted as this list is already under review. However, in March 2002, the applicants were told by the Director of MNR's Fish and Wildlife Conservation Branch that the next revision of the list would reclassify the status of the eastern wolf from "indeterminate" to "vulnerable." In September 2002, MNR revised the VTEEE list without making the promised change. Therefore, the ECO believes that MNR's rationale for denying this application is flawed as the ministry's review of the list in 2002 did not address the concerns raised by the applicants.

The ECO and other stakeholders have repeatedly noted the discrepancy between the number of species at risk in Ontario listed federally by COSEWIC and those recognized provincially by MNR. This discrepancy still exists and is reflected in MNR's VTEEE list. In the supplement to the 2001/2002 Annual Report, the ECO urged MNR to consider listing the eastern wolf on its

VTEEE list and also to consider classifying it as a "specially protected mammal" under the *FWCA*, as was also suggested by the applicants.

MNR informed the applicants that a provincial wolf conservation policy is not warranted as Ontario's wolf populations are considered healthy across their ranges. The ministry also asserted that there is no evidence that the present level of hunting and trapping is posing a threat to their sustainability. Unfortunately, MNR did not provide any quantitative data to support their claim or to reassure the applicants.

The ECO believes that decisions based on scientific principles should be made by MNR to conserve Ontario's wolf populations. There are significant gaps in the scientific study of wolves, despite what is known about their social behaviour and physiology. This lack of knowledge is evident in estimates of wolf population numbers and their current ranges, particularly as they apply to Ontario. The ECO believes that a central purpose of a provincial strategy could be to address this lack of information.

History and science have revealed that keystone species such as wolves should not be managed on the premise that they be harvested on a sustained yield basis. Wolves have evolved to fulfil a different ecological niche than prey species, such as moose and deer, and require a different approach to their management. The ECO concurs with the applicants that the management of the species and a provincial conservation strategy should be based on the precautionary principle.

The ECO recommended in its 2001/2002 Annual Report that MNR maintain the moratorium on the hunting and trapping of eastern wolves in the townships surrounding Algonquin Provincial Park until such time that the population is scientifically demonstrated to be a viable population. This moratorium will currently end in June 2004. The ECO also encouraged MNR to provide sufficient staff and resources to support the long-term monitoring of the eastern wolf in the area of Algonquin Provincial Park and across its natural range in Ontario. This monitoring data is necessary for MNR to make scientifically informed decisions. The monitoring of wolf populations across the province is also consistent with the Population Habitat Viability Assessment (PHVA) report conducted for the Algonquin Wolf Advisory Group (AWAG) that recommended "a regional focus beyond the boundaries of Algonquin Provincial Park and consideration of ecological connectivity to adjacent areas is necessary to address the wolf issue."

The Province of Ontario has committed to protecting species such as the eastern wolf by means of the National Accord for the Protection of Species at Risk and the National Statement of Commitment to the Canadian Biodiversity Strategy. The Canadian Biodiversity Strategy expects governments to protect and restore "viable populations across their natural historical range." As such, it is necessary that MNR actively monitor the status of this species in locations other than those areas just surrounding Algonquin Provincial Park. The ECO believes that the development and implementation of species-specific strategies should be done in the context of a provincial biodiversity strategy and species at risk strategy.

MNR did not specifically address the applicants' concern that Ontario's system of protected areas inadequately protects species such as wolves. In its 2001/2002 annual report, the ECO recommended that MNR create a new legislative framework for provincial parks and protected areas, including conservation reserves, with the mandate of conserving biodiversity. The ECO encourages MNR to enact appropriate measures in provincial park management plans to protect both gray wolves and eastern wolves due to the ecologically significant role that they play as keystone species.

Despite denying this review and dismissing the applicants' concerns, the ministry will likely have to develop a management strategy for the eastern wolf as required by the federal *Species at Risk Act*. As the eastern wolf is listed nationally as a "species of special concern," MNR will likely take the lead role in the development of a management plan for eastern wolves and their habitat in Ontario. A proposed management plan must be developed within five years of the federal *Species at Risk Act* coming into force. This management plan would be placed on a federal species at risk registry for public comment and subsequently reviewed every five years.

The taxonomic classification of the eastern wolf, particularly whether it is a distinct species, has significant implications for its conservation measures. MNR currently classifies the eastern wolf as a subspecies of gray wolf, not as a distinct species. Therefore, this animal continues to be subject to all statutory and regulatory provisions affecting the gray wolf. However, the PHVA report concludes that the available scientific information suggests that the eastern wolf "should not be considered a subspecies of the Gray Wolf," implying that it should instead be a separate species. This conclusion has also been reflected in the greater scientific community. MNR has in fact co-funded genetic work that has demonstrated that the eastern wolf is a distinct species, but the ministry has refused to reflect this finding in any of its policies or legislation.

This application relates to MNR's over-all approach to wild canid management and conservation in Ontario. In 1998, MNR released A Review of Wolf and Coyote Status and Policy in Ontario. MNR notes that this document "attempts to provide a point-in-time summary of knowledge on these species and to recommend action." As noted by the ECO in the supplement to the 2001/2002 annual report, this document is now dated due to what is now known about Ontario's eastern wolves, requiring revision and re-release. MNR should post future re-releases of this document on the Environmental Registry for public comment.

Review of Application R2002007:
O. Reg. 328 under the Endangered Species Act to Expand the List of Species
(Review Denied by MNR)

Background/Summary of Issues:

The Federation of Ontario Naturalists (FON) and Sierra Legal Defence Fund (SLDF) filed this application for review requesting that MNR consider the need to amend Ontario Regulation 328 under the *Endangered Species Act* (*ESA*) to expand the list of protected species. This regulation under the *ESA* lists the flora and fauna that the Ministry of Natural Resources (MNR) has declared to be "threatened with extinction."

Last amended in March 2003, subsequent to this application, the regulation currently lists 19 species of fauna and 17 species of flora. The applicants assert that the regulation is deficient in not listing all of Ontario's endangered and threatened species as identified by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC). COSEWIC is the body responsible for listing species at risk across Canada under the authority of the federal *Species at Risk Act*.

FON and SLDF believe that a serious discrepancy exists in Ontario between the numbers of species listed by COSEWIC and those species at risk listed by MNR in O. Reg. 328 under the *ESA*. While MNR did add three species in 2001 and seven more in early 2003, the regulation currently affords protection to approximately half of Ontario's endangered species as identified by COSEWIC. As of March 2003, COSEWIC has identified 56 endangered species in Ontario, while O. Reg. 328 only recognizes 27 of these species. Further, COSEWIC has identified 40 threatened species in Ontario, while O. Reg. 328 only recognizes one of these species.

The applicants believe that MNR should also amend O. Reg. 328 to include species native to Ontario that have already been assigned a rank of S1 in the most current list maintained by the ministry's Natural Heritage Information Centre (NHIC), but have not yet been added to O. Reg. 328. There are currently 530 species ranked as S1. These species are identified as being extremely rare in Ontario, usually with five or fewer occurrences in the province or very few remaining individuals.

Endangered species identified by COSEWIC, but not regulated by MNR under the *ESA*

Fauna:	**Flora:**	
American Badger (*jacksoni*)	Red Mulberry	Scarlet Ammania
Northern Bobwhite	Engelmann's Quillwort	Bluehearts
Acadian Flycatcher	False Hop Sedge	White Prairie Gentian
Barn Owl (eastern population)	Pitcher's Thistle	American Ginseng
Aurora Trout	Toothcup	Virginia Goat's rue
Wavy-rayed Lampmussel	Purple Twayblade	Showy Goldenrod
Mudpuppy Mussel	Skinner's Agalinis	Bird's-foot Violet
Northern Riffleshell	Gattinger's Agalinis	Small-Flowered Lipocarpha
Snuffbox	Spoon-leaved Moss	
Rayed Bean	Eastern Prairie Fringed Orchid	
North Madtom		
Pugnose Shiner		
Kidney Shell		
Round Hickory Nut		

Threatened species identified by COSEWIC, but not regulated by MNR under the *ESA*

Fauna:

Woodland Caribou (boreal pop.)
Grey Fox
Least Bittern
Hooded Warbler
Butler's Gartersnake
Jefferson Salamander
Fowler's Toad
Eastern Massasauga Rattlesnake
Black Rat Snake
Eastern Fox Snake
Eastern Hog-nosed Snake
Queen Snake
Shortjaw Cisco
Shortnose Cisco
Blackfin Cisco
Channel Darter
Eastern Sand Darter
Spotted Gar
Black Redhorse
Deepwater Sculpin (Great Lakes)
Lake Whitefish (Lake Simcoe)
Eastern Spiny Softshell Turtle
Lake Chubsucker
Stinkpot

Flora:

Kentucky Coffee Tree
American Water-willow
Crooked-stem Aster
Western Silver-leaved Aster
White Wood Aster
Dense Blazing Star
American Chestnut
Colicroot
Lakeside Daisy
Deerberry
Goldenseal
Round-leaved Greenbrier
Wild Hyacinth
Small-flowered Lipocarpha
Climbing Prairie Rose
Willowleaf Aster
Common Hoptree

FON and SLDF believe that MNR has made little progress in listing species under *ESA*. FON and SLDF acknowledge that MNR did amend O. Reg. 328 to list three additional species in 2001: the few-flowered club rush, the horsetail spike-rush, and the slender bush clover. However, four of the species currently listed under the *ESA* are believed to have entirely disappeared from Ontario. As habitat loss is among the most significant threats almost every endangered species in Ontario not regulated by the *ESA*, the applicants believe that these species must immediately be protected.

FON and SLDF state that listing these species at risk under the *ESA* is necessary to protect the environment and that it is in the public interest. The applicants believe that undertaking this review would be consistent with MNR's mandate and core objectives:

- to ensure the long-term health of ecosystems by protecting and conserving valuable soil, aquatic resources, forest and wildlife resources as well as their biological foundations;
- to ensure the continuing availability of natural resources for the long-term benefit of the people of Ontario; that is, to leave future generations a legacy of the natural wealth that we still enjoy today; and,
- to protect natural heritage and biological features of provincial significance.

FON and SLDF also believe that MNR should undertake this review due to commitments made by the Government of Ontario to protect species at risk. In 1996, Ontario signed the National Accord for the Protection of Species at Risk. The provinces and territories of Canada agreed "to prevent species in Canada from becoming extinct as a consequence of human activity" and "to establish complementary legislation and programs that provide for effective protection."

The applicants assert that MNR's failure to list and protect endangered species runs counter to the commitments made by the Province of Ontario to implement the Canadian Biodiversity Strategy and the international Convention on Biological Diversity. The mandate of the Canadian Biodiversity Strategy is to conserve biodiversity and use biological resources in a sustainable manner. The applicants contend that MNR, in allowing species to decline towards extinction when protections are available under the *ESA*, is violating its commitment of conserving biodiversity and protecting species at risk.

Ministry Response:
MNR determined that the public interest does not warrant a review of the issues raised in this application. The ministry stated that the regulation of species at risk constitutes only part of the listing process. MNR stated that the pre-consultation with landowners of properties on which a species occurs is critically important. The ministry stated that contact with landowners provides an opportunity to verify the occurrence of the species, provide information to the landowner, inform the landowner of the ministry's intent to regulate the species, and inform them of the legal implications of the *ESA*. MNR also stated that the contact and consultation process with landowners can be very time consuming.

The ministry asserted that the goodwill of landowners is essential to the long-term protection and recovery of species at risk. MNR stated that pre-consultation is necessary to ensure that the prohibition section of the *ESA* may be enforced so as to be able to demonstrate "wilful" intent. The *ESA* states that no person shall wilfully "destroy or interfere with or attempt to destroy or interfere with the habitat of any species of flora or fauna." The ministry asserted that if there was no pre-consultation, it would not be possible to demonstrate the wilful harm, since an individual could assert that they were not aware of the presence of a species or its legal status.

The ministry stated that the consideration of additional species for O. Reg. 328 is part of MNR's on-going business, consequently the matter is already subject to periodic review. MNR stated that, as of March 2003, that there are 32 species under consideration to be added to O. Reg. 328. In January 2002, MNR proposed adding 7 of these species to O. Reg. 328, with the regulation being amended in March 2003 after the ministry decision to deny this application for review. MNR also asserted that it is currently reviewing its Vulnerable, Threatened, Endangered, Extirpated, and Extinct (VTEEE) list.

It is the ministry's position that the wording "threatened with extinction" in section 5 of the *ESA* describes a level of risk associated with species recommended for "endangered" status at both a provincial and a national level. MNR stated that species that have been designated as nationally "threatened" by COSEWIC are not considered for listing in O. Reg. 328 under the *ESA* unless they have been recommended by MNR for regulated endangered status in Ontario. The ministry also stated that the 530 species it recognizes as being extremely rare with a rank of S1 will not be regulated under the *ESA* until such time they are considered by COSEWIC or MNR as being "endangered."

In the handling of this application, MNR failed to comply with section 70 of the *Environmental Bill of Rights* (*EBR*) that requires the ministry to provide notice of a decision to the applicants and the ECO within 60 days of its receipt. MNR received the application for review on November 18, 2002. The ministry subsequently informed the applicants that a decision would be made by January 31, 2003. However, MNR did not provide its decision to the applicants and the ECO until February 10, 2003, which was 23 days late. The ministry was also late in providing a decision on a different application for review at approximately the same time. The ECO is concerned that MNR failed to adhere to the legislative requirements of the *EBR* by not providing a timely response to applicants. The ministry also did not provide any information that would assist the applicants in resolving their concerns.

ECO Comment:

The ECO disagrees with MNR's decision to deny this application for review. FON and SLDF raised legitimate concerns in requesting that the ministry revise O. Reg. 328 to better protect Ontario's species at risk. The ECO concurs with the applicants that it is in the public interest for the ministry to conduct a review of the issues raised in this application.

The ECO is concerned that MNR is unreasonably delaying the protection of these species because of its protracted landowner consultations. While consulting affected landowners and obtaining their goodwill is laudable, it should not be at the expense of the necessary legal protection that should be afforded to these species. The ECO agrees with the ministry that the consideration of private property interests is a significant issue. However, concerns raised by affected landowners should not unduely delay the protection of species at risk. The ECO also notes that the majority of fauna recognized as being endangered by COSEWIC, but are not yet regulated by MNR, are aquatic species and landowner concerns would be minimal.

The ECO reported in its 1999/2000 and 2001/2002 annual reports that species at risk are inadequately protected in Ontario because of a confusing blend of generally outmoded and ineffective laws and policies. The ECO encouraged MNR at that time to initiate the necessary public debate to assess options to effectively prevent the loss of species and their habitat in Ontario, including options to improve recovery planning and implementation. However, the legislative, regulatory and policy frameworks remain essentially unchanged. The ECO has also previously commented on the discrepancy between the number of endangered species in Ontario listed by COSEWIC and those regulated by MNR under the *ESA*. The ECO also previously recommended that MNR develop a provincial biodiversity strategy to guide such decision-making.

The ECO and many other stakeholders have repeatedly noted that the majority of legislation that deals with biodiversity issues, including the *ESA*, is outdated and requires revision. The ECO also reported in its 2001/2002 Annual report that MNR has not fulfilled its commitments under the Canadian Biodiversity Strategy. The ECO believes that MNR should undertake a comprehensive assessment of Ontario's current policies, regulations and statutes, and enact appropriate changes to conserve the province's biodiversity.

MNR has internally identified the need for significant revisions for its legislative, regulatory and policy frameworks governing species at risk. The ministry has committed itself in its project plans to have developed separate policies addressing recovery planning, listing and regulating procedures, and landowner contact procedures by 2002. MNR states that these policies will serve as interim guidelines for use by ministry staff and it does not intend to place them on the Environmental Registry for public comment.

The ministry has committed itself to developing a Provincial Species at Risk Strategy by 2003. MNR states that it intends to contact key stakeholders during the consultation process and that it will place the provincial strategy on the Environmental Registry for public comment. MNR has also internally identified the need to revise the *ESA* to harmonize it with the federal *Species at Risk Act*. The Government of Canada passed this legislation in 2002. Given these developments, MNR should not have denied this application for review.

The ECO encourages MNR to revise the *ESA* and its regulations to better protect Ontario's species at risk. The ECO believes that any revisions to the *ESA* should harmonize with and complement the federal *Species at Risk Act*. Any revisions of the existing legislation should include the measures to recognize and afford protection to Ontario's endangered and threatened species, in addition to species of special concern. By revising the *ESA* and releasing its Provincial Species at Risk Strategy, MNR would be making progress toward its 1996 federal-provincial commitment "to establish complementary legislation and programs that provide for effective protection of species at risk throughout Canada." The revision of the *ESA* and the content a Provincial Species at Risk Strategy should be guided by the over-all context of creating a provincial biodiversity strategy.

Review of Application R2002009:
Regulatory Regime relating to Logging Roads, Access Controls and the Preservation of Roadless Wilderness Areas
(Review Denied by MNR)

Background/Summary of Issues:
Sierra Legal Defense Fund submitted this application on behalf of the Algonquin Wildlands League along with their field report *The Road Less Travelled?* The report describes concerns about the impacts of logging roads and in particular the increased access to the forest they provide for other uses such as motorized hunting and fishing. The applicants conducted a field study at the Temagami Forest Management Unit to investigate the effectiveness of MNR's strategies to restrict motorized public access to special management areas in order to preserve remote forest values. Field visits and MNR inspection records showed high levels of access control violations.

The applicants requested a review of all existing laws, policies, regulations and instruments addressing the building of logging roads and the planning of logging road networks, access control issues and the preservation of roadless wilderness areas. They also requested the ministries review the need for new laws, policies, regulations and instruments to incorporate into Ontario's forestry management practices the recommendations provided in *The Road Less Travelled?* The application was sent to both MNR and MOE.

Ministry Response:
MNR denied the application for review on April 28, 2003.

ECO Comment:
The ECO will review this application in the 2003/2004 reporting year.

Review of Application R2002012:
Open Freshwater Netcage Aquaculture Operations - Escapement
(Review Denied by MNR)

Background/Summary of Issues:
In February 2003, the applicants submitted an application for review of existing policies and regulations related to escapement of fish from open netcage aquaculture operations as carried out in Georgian Bay. The applicants alleged that many more than the reported 100,000 to 200,000 fish escape from netcage operations annually and that the effect on the declining native fishery is unknown. The applicants requested that existing policies and regulations related to enforcement be reviewed and that the impact on the native fishery be reviewed.

Information regarding two related reviews R2002011 and R2002013 can be found on pages 209 and 185 respectively.

Ministry Response:
In May 2003, MNR advised the applicants that a review is not warranted.

ECO Comment:
ECO will review the handling of this application in the 2003/2004 reporting period.

Review of Application R2002015:
Request that the *Fish and Wildlife Conservation Act* be Prescribed under the *EBR*
(MNR Returned the Application to the ECO)

Background/Summary of Issues:
The applicants requested that O. Reg. 73/94 under the *EBR* be updated by amending the reference to the *Game and Fish Act* to read the *Fish and Wildlife Conservation Act* (*FWCA*), and to prescribe the *FWCA* for the purposes of applications for review under the *EBR*.

Ministry Response:
MNR returned this application to the ECO, stating that MOE, and not MNR, is responsible for the administration of the *EBR*.

ECO Comment:
The ECO will review the application in the 2003/2004 annual report.

SECTION 6

ECO REVIEWS OF APPLICATIONS FOR INVESTIGATION IN 2002/2003

NOTE: An allegation contained in an application may or may not have been proven to be an offence under the laws of Ontario or Canada

MINISTRY OF THE ENVIRONMENT

Review of Investigation I99008:
Alleged *OWRA*, *EPA* and *EAA* Contraventions by Snow Valley Ski Resort through Road and Sewage System Construction
(Investigation Conducted by MOE)

Background/Summary of Issues:
In March 1999, the ECO received an application for investigation from two Minesing residents concerned with the road construction and sewage disposal system installation at the nearby Snow Valley Ski Resort, north of Barrie. In particular the applicants alleged that the Snow Valley Ski Resort and its owner violated the *Environmental Assessment Act (EAA)*, the *Environmental Protection Act (EPA)* and the *Ontario Water Resources Act (OWRA)* in the following ways:

- no Environmental Assessment performed prior to construction of a road in a Class I-III wetland, in alleged violation of Ontario Regulations 334 and 345 of the *EAA*;
- failed to register on title an easement established by the Simcoe County District Health Unit, in alleged violation of Ontario Regulation 358 of the *EPA* for an instrument created under subsection 27(1) of the *OWRA;*
- undertook building expansions without septic approvals, in alleged violation of Section 30 and subsection 53(1) of the *OWRA* and Section 14 of the *EPA*; and
- withdrew more than 50,000 L/day of water without a permit, in alleged violation of subsection 34(3) of the *OWRA*.

Ministry Response:
MOE undertook the investigation. In a letter dated July 13, 1999, MOE indicated that its Abatement section had completed its investigation, and had forwarded the matter to the Investigations and Enforcement Branch for their consideration. MOE expected the investigation to be completed by July 22, 2000. Meanwhile, MOE notes that it issued a Field Order to require certain work to be done to address some of the concerns raised in this application for investigation. MOE may order further work, pending results from the initial field order. MOE recently advised the ECO that Snow Valley management have now carried out studies of groundwater impacts and have voluntarily applied for and received *OWR Act* approval for a new sewage works.

In November 2000, MOE advised the applicants and the ECO that the Investigations and Enforcement Branch was still investigating the matter, and that the anticipated completion date was March 31, 2001. ECO staff confirmed on May 17, 2001 that the investigation had not been completed. In July 2002, ECO staff were advised that the investigation had been completed and that charges were laid on February 20, 2002. A trial was held in late 2002 and charges were dismissed. MOE is appealing this verdict.

ECO Comment:
MOE will provide the ECO with a formal update once the appeal is initiated. The ECO will review the application once reports have been received from MOE as to details of the investigation, trial and appeal.

Review of Application I2000001:
Alleged *EPA* Contravention (noise discharge) by Cook's Mill
(Investigation Conducted by MOE)

Background/Summary of Issues:
The applicants live immediately adjacent to Cook's Mill in the village of Hensall, in Huron County. Cook's Mill is a division of Parrish & Heimbecker, an agri-food company specializing in the marketing and procurement of edible beans, peas, lentils, coarse grains and oilseeds. The Hensall Branch of Cook's Mill ("the mill") has the capacity to receive 80 million tonnes (Mt)/hour of beans, corn, wheat and barley and to dry 30 Mt/hour. In addition, the facility has the capacity to store 19,000 Mt of beans and grain. The drying process requires drying and aeration fans, which are a source of considerable noise emissions.

The applicants' family moved in to renovate the house near the mill in 1970 after the mother of one of the applicants purchased it. At that time the area was residential. The mill had an office and silos some distance to the west of the house, but the operations were far enough away to cause no adverse impact on the area. Around 1971, Cook's built six more silos and a number of buildings, including a dumping station, dryer, dryer fans and aerating fans about 45 feet from the applicants' property. Cook's also built a driveway next to the applicants' home that trucks used to access the mill. In 1973, having finished the renovation, the applicants moved to another residence across town.

In 1984, after the death of the applicant's mother, they moved with their children back to the house next to the mill. The noise coming from the plant operations significantly interfered with the enjoyment of their property and was believed to have caused health problems in various members of the applicants' family. The applicants repeatedly complained to the owners of the mill and to MOE. In 1992 MOE required the mill to install silencers on the drying and aeration fans and to comply with ministry guidelines for noise emissions. The applicants submitted that despite the silencers, the noise level was not greatly abated. In 1995 the ministry undertook further abatement activity, and the mill was required to meet more stringent noise level requirements, and to install a noise barrier along the property boundary between the mill and the applicants' property.

Despite the attempts to reduce the amount of noise contamination, the applicants continued to suffer negative effects of living in close proximity to the mill. After an audit in 1998, the ministry concluded that the mill's noise abatement equipment met the requirements in its Certificate of Approval (C of A) for Air.

The mill is located in a small rural village that does not have a noise by-law. According to the applicants, MOE began abatement activities in the late 1980s, requiring the mill to apply for a C of A for noise abatement equipment. The first C of A was issued in 1992. Despite the new requirement for noise abatement equipment, noise levels were not lowered and an amended C of A was issued in 1995. Notwithstanding the amended C of A, noise levels continued to be above the limits in the C of A, and to be a constant source of distress for the applicants.

In August 2000, the applicants filed their *EBR* application for investigation of alleged noise contamination in contravention of the *Environmental Protection Act*.

Ministry Response:
In October 2000, the Investigations & Enforcement Branch accepted the application. In July 2001, the applicants were advised that charges had been laid under s. 14 (1) of the *Environmental Protection Act* (*EPA*) for the time periods of October 15, 1999 to November 12, 1999 and October 29, 2000 to November 7, 2000. Charges were laid back to 1999 based on the two-year limitation period established under the *EPA*.

Section 14(1) of the *EPA* prohibits the discharge of a contaminant into the natural environment if it causes or is likely to cause an adverse effect. A contaminant is defined as any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of the above that results directly or indirectly from human activities and causes an adverse effect.

No charges were laid for contraventions of the mill's Certificate of Approval.

The mill pleaded guilty to the charges and was sentenced on June 14, 2002. The sentence was a fine of $15,000 and a requirement to comply with the following conditions:

1) Immediate and permanent cessation of the operation of the existing east dryer and its fans at the facility. The motors powering the east dryer and its fans to be immediately locked down by lock boxes with the only keys to be kept under the care and control of the plant manager of the facility.

2) No blowers, fans or dryers, with the exception of the existing fixed aeration fans, are to be operated at any location on the facility east of the existing west dryer.

3) Within 90 days install new acoustical insulation on the entire west face of the residence at [the Applicant's residence] and replacement of siding with new acoustical siding. Replacement of the two existing windows on the west wall of the residence with new sealed windows. Installation of central air conditioning to the residence at [the Applicant's residence].

4) No transfer of grains, beans or other materials into or from any containers, hoppers and silos on the east side of the facility between 5 p.m. and 7 a.m. local time daily.

5) No banging on legs, pipes, turnheads or other containers at the facility between 5 p.m. and 7 a.m. local time daily.

6) Barriers to be put in place immediately blocking the facility's east Richmond Street North entrance from the base of the existing hydro pole to the property line at [the Applicant's residence]. Clearly posted signs shall be erected immediately on site advising all vehicle operators to use the Mill Street driveways unless both Mill Street driveways are in use and letters so advising shall be sent to all businesses who ship and receive to the facility.

7) No idling of truck engines for more than five minutes. Clearly posted signs shall be erected immediately on site advising all truck operators of this and letters so advising shall be sent to all businesses who ship and receive to the facility.

8) No honking of vehicle horns on the facility. Clearly posted signs shall be erected immediately on site advising all vehicle operators of this.

The ECO was informed in October 2002 that the mill had appealed conditions 3, 4 and 5 of the Court Order and was currently in negotiations with MOE and the applicants to purchase their property. The ministry believes that to be the best solution for the applicants. If the applicants receive a satisfactory offer for the sale of their home, MOE has agreed to ask that the Order be withdrawn.

ECO Comment:

The past three ECO annual reports have contained discussions relating to the lack of enforcement of certain sections of the *EPA* and the *Ontario Water Resources Act* by MOE. In particular, the ECO is concerned with the low priority MOE has placed on enforcing contraventions of section 14 of the *EPA*. MOE has a statutory duty to enforce all aspects of the *EPA*, including contraventions of s. 14 due to noise, odour, dust and vibration. While noise, odour, dust and vibration are considered nuisances, exposure to high levels of such nuisances can seriously interfere with the use and enjoyment of people's property and cause adverse health effects. The potential adverse effects of these nuisances are the reason they are included in the *EPA* definition of contaminants.

In 1997 MOE developed its *Procedures for Responding to Pollution Incidents Reports*. The procedure was an attempt to allow MOE to better deliver its mandate by focussing on larger and more environmentally significant problems. The procedure was part of a larger ministry Delivery Strategy. Noise and vibration from grain dryers and conveyance systems are listed as incidents that "require no further response" from MOE. If the ministry received an incident report related to noise, the complainant would be directed to call the local municipality, which usually had authority to enact noise control by-laws.

The *Municipal Act, 2001* came into force January 1, 2003. This new *Municipal Act* gives municipalities certain powers to prohibit and regulate noise, odour, dust, vibration and outdoor lighting. The *EPA* was concurrently amended to eliminate the need for MOE approval of municipal by-laws relating to noise and other nuisances. The policy direction and the recent amendments to the *EPA* point to the downloading of responsibilities for enforcement of contraventions for noise, odour and dust to municipalities. The ECO has commented previously about our concerns over the ability of some municipalities to adequately take action for this type of discharge.

In this case, the applicants experienced adverse effects of noise discharges from the mill for a period of 17 years. Although ultimately the mill was charged with contravening s. 14 of the *EPA,* the case is a good example of the lack of enforcement of provisions for noise pollution. The situation was made worse by the expansion of the mill, in what had been a primarily residential neighbourhood. The municipality may have made questionable land use decisions, and the ECO has no jurisdiction to review such decisions. However, the case remains an example of what can happen if municipalities are left to enforce the provisions in the *EPA* related to nuisance pollutants. Smaller municipalities will be forced to choose between the revenue and jobs created by industry and the health and well-being of their inhabitants. This type of conflict could be avoided if cases of severe nuisance pollution remain enforced by MOE.

This case demonstrates that lack of enforcement of certain sections of the *EPA* can have serious impacts on the wellbeing of Ontario residents. The ECO questions why the applicant's concerns were not addressed sooner. It was not until the applicants were featured on a prominent news show, *Goldhawk Strikes Back*, and an application for investigation was filed under the *EBR* that MOE took action to prosecute the mill and found that it had not been in compliance with environmental law for well over a decade.

Nonetheless, the ECO is pleased that the application for investigation resulted in further investigation and the laying of charges by MOE. The ECO believes that this application demonstrates the usefulness of the rights provided to the public by the *EBR.*

Review of Application I2000005:
Alleged Contravention of Class EA by Ontario Realty Corporation
(Investigation Conducted by MOE)

Background/Summary of Issues:
The applicants alleged that the Ontario Realty Corporation (ORC) contravened the *Environmental Assessment Act* by failing to comply with the requirements of the Class Environmental Assessment for ORC Realty Activities (Class EA). The ORC is the agency responsible for lands and property owned by the provincial government. The Class EA sets out requirements for environmental study, documentation and public consultation for a number of ORC activities, including land sales.

The applicants said that ORC had sold or was proposing to sell properties within the 4,000 hectare "North Pickering-Markham Agricultural Assembly" (also called the Rouge-Duffins Agricultural Preserve) for development without the proper environmental assessments as required by the Class EA. The applicants also stated that ORC had "steadfastly refused" to consult with them in any deliberations concerning the possible sale of lands affecting the Rouge

Valley ecosystem. The applicants listed five specific properties of concern: four properties in Markham and one property on the Oak Ridges Moraine. In the following text they are described as areas 1, 2, 3, 4 and 5.

The Class EA sets out different levels of EA study, or "categories" for different types of activities. Category B undertakings require consultation with directly affected parties, a site analysis, and filing of a consultation and documentation record, which must then be available to the public. Category C undertakings need more scrutiny; they require an environmental study report and several stages of public consultation. Category D undertakings are major projects requiring individual environmental assessments. The Class EA places land sales in Category B with the exception of sale or disposal of property containing or affecting an environmentally significant area, to a non-conservation body, which is listed as Category C. The applicants submitted the ORC consultation and documentation record for the North Pickering-Markham Agricultural Assembly as evidence that the land sales it covered should have been carried out as a Category C or D rather than as a Category B undertaking.

Ministry Response:
MOE carried out an investigation and concluded that none of the available information had shown that the Ontario Realty Corporation conducted the wrong category of assessment for any of the properties mentioned in the application. For several properties that had already been sold, MOE was unable to determine whether the correct category of assessment was conducted because ORC was unable to produce the necessary records. MOE pointed out that, even if the wrong environmental planning process was followed, the limitation period for prosecutions for this offence has expired because the sales took place several years ago. Under the *Provincial Offences Act*, charges for an offence under the *EAA* must be laid within six months after the date upon which the offence was or is alleged to have been committed.

As ORC is required by the Class EA to maintain records on an on-going basis, and thus the expiry of a limitation period does not apply, MOE forwarded that matter to its Investigations and Enforcement Branch for further investigation and possible prosecution. Upon further investigation the ministry concluded that the record keeping requirements related to the properties in question had been complied with and no further action will be taken. The ministry did say however that options are being considered to address the record-keeping problems identified during the investigation, including improved record-keeping and compliance monitoring provisions in ORC's proposed new Class EA for realty activities.

MOE could only conduct a full analysis of the consultation and documentation records for the lands in area 1 and area 5. A similar analysis could not be conducted for areas 2 and 3 as ORC said no lands were sold within those areas. The record for the lands sold in area 4 could not be analysed as ORC failed to produce records relating to the lands that had been sold. For area 1, MOE carried out a review of the consultation and documentation record for the North Pickering-Markham Agricultural Assembly to determine whether it had been prepared in accordance with the requirements set out in the Class EA and whether the proper environmental planning category had been applied. MOE concluded that ORC had determined the sale of the Land Preserve was a Category B undertaking and completed a record as required by the Class EA.

MOE notes that once ESAs were identified on the lands the ORC made a commitment to ensure that they were partitioned and transferred to the Toronto Region Conservation Authority to keep them in public ownership. With regard to area 5, MOE concluded that the proposed sale had properly been categorized as a Category B undertaking because there were no environmentally significant areas on the property.

ECO Comment:
This investigation highlights the inadequacy of the statute of limitations for prosecutions under the *Provincial Offences Act*. Unlike the *Environmental Protection Act*, where the statute of limitations is two years from the time of the offence or from the time a provincial officer learns of the offence, the limitation for prosecutions under the *EAA* is a mere 6 months. This makes it very difficult to pursue applications for investigation under the *EBR*, especially when the ministry takes two years to complete an investigation, as it did in this case.

The applicants did not accept the ministry's dismissal of their allegations against the ORC. One of the properties in question, area 5, was sold during the *EBR* investigation. The applicants had also submitted a request to the ministry to "bump-up" the assessment for the sale of those lands to an individual environmental assessment under the *EAA*. The ministry denied the bump-up request and provided its response on that portion of the *EBR* investigation at the same time, concluding that there are no environmentally significant areas on the property and that the Category B assessment was appropriate. The applicants disagreed with the ministry's determination and launched a private prosecution of the ORC. The applicants brought the same allegations before the court as they raised in this application. The ECO will monitor the court case and report the outcome in the next annual report.

Review of Application I2001004: Alleged *EPA* Contraventions at Township of West Grey's Bentinck Landfill (Investigation Undertaken by MOE)

Background/Summary of Issues:
The applicants alleged that the Township of West Grey received contaminated soil in the Bentinck Landfill in contravention of the terms and conditions of its Certificate of Approval (C of A). The Township had removed the soil from a property which had been used as a gas station and body shop for approximately 40 years but was being remediated by the Township for a new municipal building.

The Township had retained consultants to conduct an environmental site assessment to determine the nature and extent of contamination in the soil on the property. The consultants advised the Township that some of the soil contained petroleum compounds exceeding applicable MOE guidelines (MOE's Guideline for Use at Contaminated Sites in Ontario, 1997, Table A - surface soil criteria for industrial/commercial land use in a potable ground water condition). Under MOE guidelines, this soil had to be either remediated or removed from the site. The Township had two loads (approximately 25 cubic yards) of petroleum-contaminated soil removed from the site and hauled to the Bentinck Landfill in October 2001, where it was stockpiled and later used as cover.

Ministry Response:
The ministry investigated through correspondence and conversations with the Township of West Grey, its consultant, and the ministry's District Office.

The ministry found that contaminated soil was removed from the site and sent to the landfill. The consultants reported that they advised the Township that they should carry out Toxicity Characteristic Leaching Procedure (TCLP) analyses of the soil in accordance with Regulation 347 (General Waste Management) before having the soil hauled to the landfill site. This test determines whether the soil requires handling and disposal as hazardous waste. The ministry investigation "determined that the municipality did not do any TCLP analyses in accordance with Regulation 347 on the soil hauled to the landfill site," but then said "a TCLP analysis is not mandatory." Using a different set of criteria (Table D - subsurface soil criteria for industrial/commercial land use for a nonpotable groundwater condition) in the Contaminated Sites Guidelines than that used by the consultants, MOE stated that the results indicate the contaminated soil is likely non-hazardous.

The ministry reviewed the landfill's C of A and confirmed that it is not allowed to accept any kind of contaminated soil. But the ministry stated that the disposal of the soil at the landfill was "consistent with the historical operational practice of the District Office." The investigation found that "prior to the material going to the landfill, the MOE's area Environmental Officer was contacted regarding the disposal of hydrocarbon contaminated soils at municipal landfills. He provided a general response that this type of soil can go to landfill subject to the landfill operator accepting the material. Contaminated soil has historically been accepted at landfill sites, with verbal instructions of an Environmental Officer under Section 96 of the *Environmental*

Protection Act (*EPA*), related to the cleanup of fuel spills of less than 100 tonnes." In follow up with the ECO, MOE confirmed that no formal approval for the disposal was given under section 96.

The ministry said it would be impossible to do any meaningful follow-up sampling of the soil because it had been aerated, spread and incorporated into the landfill. MOE also concluded that the disposal of the soil was unlikely to cause any adverse effects.

MOE decided not to undertake any further investigation or prosecution of the matter, but said it would follow up with the municipality to either amend the C of A to allow the dumping of contaminated soils or require the municipality to operate in the future within the restrictions of its current C of A.

ECO Comment:
MOE's conclusion that there is no basis for further investigation or prosecution is realistic and the suggested follow-up actions are sound. Some of MOE's rationale for not pursuing further investigation was difficult to understand, because the wording of MOE's investigation summary was unclear. For example, by invoking section 96 of the *EPA* in the investigation summary it gave the impression that the dumping may have been formally approved by MOE staff, when that was not the case. This obscured the fact that the findings of the investigation substantiated the applicants' allegations that the acceptance of contaminated soil contravened the terms and conditions of the landfill's C of A.

The ECO is concerned that MOE concluded in this investigation that the soil was likely non-hazardous. Table D of the Contaminated Sites Guideline is not the legal test of whether soil is clean enough to spread at a municipal landfill or whether it has to go to a hazardous waste facility. The only legal measure of whether contaminated soil is hazardous waste once it has been removed is made under Regulation 347, the province's primary waste management regulation. The consultants correctly advised the Township that if it intended to "dig and dump" the petroleum-contaminated soil, the soil must be analyzed, removed, and disposed of in accordance with the requirements of the new amendments to Regulation 347.

In 2000, Regulation 347 was amended, introducing the TCLP. The new testing procedure means that some waste previously classified as non-hazardous would have to be treated as hazardous waste. In the ECO 2000/2001 annual report, the ECO noted that concerns were raised during consultations on the amendments that soils meeting the soil criteria in the Guideline for Contaminated Sites could fail the new leachate tests and require disposal as hazardous waste. At the time the changes were made many stakeholders raised concerns that contaminated soils would use up valuable space at hazardous waste facilities, but MOE considered these comments and finalized the tougher new province-wide rules anyway. MOE's question and answer document clearly states that contaminated soils must be properly assessed and characterized under the new provisions to determine if they are hazardous and require handling and disposal as hazardous wastes.

MOE's statement in the investigation summary that "a TCLP analysis is not mandatory" is technically correct, but it is mandatory to classify wastes as hazardous if they exceed the TCLP or other criteria in regulation 347, and that can only be assessed by carrying out the TCLP analysis. In instances where a waste generator or landfill operator is certain that a waste is not hazardous, generators do not need to apply the test. Where it is uncertain whether a waste would exceed the TCLP criteria in Regulation 347, best practices would be to test the waste.

In later correspondence to the ECO, MOE staff continued to maintain that soil meeting the Table D criteria is clean enough to be disposed of in a municipal waste landfill site and said that they thought the soil would likely have met the TCLP criteria as well. The soil may or may not have passed the TCLP, but it has been spread and incorporated into the landfill, so it cannot be tested now. The ECO is surprised by MOE's attitude towards the Township's failure to carry out a leachate test, and MOE's continuing reference to Table D of the contaminated sites guideline to characterize the soils as likely non-hazardous.

The investigation found that the new hazardous waste rules were not being enforced in this particular MOE district office, where 'historical practice' was allowed to continue after the 2000 amendments to Regulation 347. As MOE concluded, the small amount of soil involved in this incident was unlikely to cause significant adverse environmental effects, but this practice may be occurring at other sites as well. MOE should clarify and communicate the new testing requirements to those remediating brownfield sites, to municipal and small landfill operators, and throughout the ministry district and area offices.

This application demonstrates that there is still some uncertainty in the relationship between the province's Brownfield and hazardous waste regulations. The ECO hopes that new regulations proposed in February 2003 under the *Brownfield Statute Law Amendment Act* will provide greater certainty of the standards used to clean up contaminated sites. The proposed new pre-treatment standards for land application of hazardous waste under the *EPA* will probably add new rules for the disposal of contaminated soils.

Review of Application I2001007: Alleged *ARA, EPA* and *OWRA* Contraventions by Sarjeant Aggregates (Investigation Undertaken by MOE)

Background/Summary of Issues:
In February 2002, the ECO received an application for investigation in which the applicants alleged contraventions by a medium-sized aggregate pit operator of the *Aggregate Resources Act (ARA),* Section 14 of the *Environmental Protection Act (EPA),* and Section 34 of the *Ontario Water Resources Act (OWRA).* Specifically, the applicants alleged that the operation of a gravel pit located near their residence in the Township of Oro-Medonte, had been causing excessive noise and dust and that the stockpiling of extracted materials above the surface had been occurring, in violation of the site plan and aggregate licence issued for the operation.

The applicants alleged that they had been urging the Ministry of Natural Resources (MNR) and the company for three years without success, for improvements to the site operations that were adversely affecting their ability to enjoy their homes and property. The applicants alleged that much of the noise disturbance was caused by the operation of a loud diesel powered generator and water pump which they said was in operation 24-hours per day, including weekends and holidays. The operation of the pump and generator caused a constant droning noise which aggravated the applicants. The applicants alleged that a condition of the operator's Permit to Take Water (PTTW) stating that water could only be taken for 12 hours per day, had been violated. For the alleged contraventions of the PTTW, which are subject to the *OWRA* and for the alleged contravention of air standards caused by excessive noise and dust, which are subject to the *EPA*, the ECO forwarded a copy of the application for investigation to the Ministry of Environment (MOE).

Ministry Response:
In a letter dated January 20, 2003 MOE reported that its investigation was complete, nearly one year after the application was submitted. The results of this investigation concluded that a clerical error in the handling of the PTTW had resulted in the mistaken indication on the PTTW that the operator was permitted only to take water for a maximum of 12 hours per day. MOE reported that this should have read 24-hours per day, which was the limit that the company had been operating within. This discrepancy according to MOE has been rectified through the issuing of an amendment to the PTTW to indicate a maximum 24 hours per day. MOE did not post this amendment on the Environmental Registry because the ministry did not deem it to be environmentally significant due in part to the fact that the actual amount of water permitted to be taken per day had not changed and the company had not exceeded this daily limit. The Ministry thus indicated that since the permit has been amended that no contravention of the *OWRA* is present. However, the time period in which there was a discrepancy between the PTTW and the water taking procedures of the company did result in the forwarding of the investigation proceedings to the Ministry's Investigation and Enforcement Branch for "their consideration for prosecution." MOE indicated that it is unlikely that further action would be taken.

MOE's response to the alleged 24-hour operation of a diesel pump and the noise created by this activity was to refer the applicants to MNR's investigation outcome (I2001006). MNR's report indicated that the company has mitigated the noise caused by the water taking activity by replacing the noisy diesel generator with an electrical power supply. MOE also reiterated MNR's comment that the conditions of the pit licence only restrict "extraction activities" to daytime hours and weekdays. According to MNR this does not usually include water taking and washing activities. Beyond this, MOE noted that the ministry has not been involved in any noise or dust complaints related to the operation of the pit, and were "therefore unable to assess adverse effect." The ministry reiterated that MNR is the lead agency responsible for complaints related to permitted/licensed facilities under the *ARA*.

ECO Comment:

MOE's lack of involvement in previous noise and dust complaints appears to relate more to the poor handling of the applicants' initial concerns by MNR Midhurst District staff (see I2001006) than to any inadequacy on the part of the Ministry of Environment. Had there been an open dialogue between the applicants, MNR and MOE, the 'clerical' oversight on the PTTW would have been amended much earlier and it is possible that this investigation would have not been needed. The early detection of this error would have occurred if MNR district staff had properly investigated the applicants' initial concerns (raised 3 years prior to their application) regarding the 24-hour noise produced from the generator and water pump; and if not by this, then by the company's fulfilment of general condition (4) of its PTTW, which stipulates it immediately contact the MOE-appointed director regarding any complaints related to the water taking activity.

The outcome of this application for investigation strongly suggests that the protocol to address environmental complaints regarding pit and quarry operations in the province which exists between MNR and MOE, was not followed. In particular MNR should have contacted MOE District staff for technical support and action when it was determined that the pit licence conditions or site plan notes cross-referenced the *EPA* and *OWRA*. MOE should have been contacted in order to fully assess whether any non-*ARA* related violations had occurred. If this had been followed, the error on the PTTW would have been detected earlier.

MNR may be the lead agency responsible for most of the alleged contraventions relating to stockpiling, noise and dust, but MOE had a role to play in this investigation. Compared to MNR, MOE's investigation report appeared poorly written and contained errors. MOE should have done a better job in keeping the applicants and the ECO informed of the current status of the application. MOE was responsible for investigating the alleged contravention of the PTTW under s.34 of the *OWRA*. Resolution of this allegation was determined in August 2003, when MOE amended the PTTW to confirm that water could be taken 24 hours per day. The Ministry's failure to conclude its investigation at this point and to notify the applicants and the ECO soon thereafter is a concern. As well, the response MOE gave to the applicants did not clearly explain whether or not a contravention of the *OWRA* had occurred during the time in which the 'clerical error' had remained uncorrected.

As well, MOE's decision not to post a notice on the Environmental Registry regarding the amendment made to the PTTW is problematic. The ECO agrees that the amendment does not itself constitute a significant environmental change because it has merely corrected the permit to reflect what the company had been doing since it began its operations on the site. However, the ECO must point out that because the original PTTW incorrectly indicated the permitted water taking per day was 12 hours, and the error was repeated at the time of the permit renewal, this means that at no time did the public have the opportunity to comment on the intended operation of the water taking activities for 24 hours per day.

Review of Application I2001009: Alleged Contraventions related to Unauthorized Filling of Shoreline (Investigation Denied by MOE)

Background/Summary of Issues:
In February 2002 the ECO received and forwarded to MOE an *EBR* application for investigation regarding alleged violations of the *Environmental Protection Act (EPA)* s. 14 and s.86, the *Ontario Water Resources Act (OWRA)* s. 30, and the *Environmental Assessment Act (EAA)*. The applicants alleged the unauthorized construction of a retaining wall and the back filling and seeding of shore lands by a neighbour adjacent to their family cottage, located on Georgian Bay in the Town of the Blue Mountains.

The applicants alleged that their neighbour had gradually built-up the shoreline fronting the property on which he lives (but is not the titled landowner), by depositing large rocks on the shoreline, placing fill and seeding the soil. This, the applicants contended had dramatically altered the natural shoreline in terms of grade, slope and cover. The applicants alleged that no ministry authorization had been issued for these alterations, and that the side effects of these shoreline changes have been the deterioration of their own well's water quality and the promotion of algae blooms on their shoreline property, due to poor lake water circulation.

In 2001 the applicants applied for a MNR works permit to open up a shared rock groyne structure, which extends into the waters of Georgian Bay, separating the two shoreline properties. This work was proposed in order to restore some natural circulation of water in the beachfront of the applicants' cottage in the hopes of reducing the level of bacteria produced by the algae blooms. The rotting of the algae has caused a severe odour problem as well as a health hazard for the family pet and has curbed the ability to swim in the waters fronting the applicants' cottage. The applicants alleged that their neighbour intentionally hindered the work permit process they initiated by refusing to comment and/or consent to the proposed works to open the groyne and restore circulation.

More specifically, the following allegations were raised within this application for investigation which are under the responsibility of MOE:

- Littering – the applicants alleged that their neighbour littered in violation of *EPA* s. 86 and did so in a manner which indicated deliberate action to cause harm to their property and the environment.
- Obstruction – the applicants alleged that their neighbour deliberately obstructed their permit application process by refusing to comment when asked by a provincial agent, in violation of both the *EPA* and *EAA*.

- Discharging of polluting material – the applicants alleged that their neighbour has repeatedly and routinely dumped fireplace ash into the waters close to their waterfront, in violation of the *OWRA*.

The alleged unregulated activities of the applicants' neighbour, including backfilling, seeding, changing grade, and adding rocks, as well as other allegations such as using chemicals and dumping fireplace ash have all, according to the applicants, contributed to the deterioration of the condition of the lake in the vicinity of their cottage. More specifically, the applicants alleged that the algae growth and sedimentation build-up has adversely impacted the natural shoreline's ecological integrity. As well, the applicants believe that their neighbour deliberately obstructed or hindered the rehabilitation process, which would serve to restore this ecological integrity and the personal enjoyment of the waterfront to the applicants' family.

Ministry Response:
In July 2002, MOE denied the application for investigation. MOE stated that the problems covered under this application appeared to be an ongoing dispute between two neighbours. In response to the allegations of littering, obstruction and the discharge of a polluting material into the water, MOE stated the following:

- Litter – Based on video-taped evidence provided by the applicants, MOE did not find a basis for an investigation in what appeared to be an instance of a person throwing a used tissue over a fence.
- Obstruction – MOE found no evidence or record of instances when a provincial employee, agent or officer was obstructed or hindered in their duties under the *EPA* or *EAA*. MOE also did not find the act of refusing to provide comments on the proposed works of the applicant consistent with 'obstruction' as defined by the legislation. The Ministry did however indicate that if MNR had felt that any officer was hindered or obstructed then that ministry has the right to forward a case or at least seek MOE's assistance in following up on the issue.
- Discharge of polluting material – MOE could not find a basis for investigation in the "indistinct" evidence provided on video-tape. The Ministry did not believe that the "magnitude" or "severity" of the issue warranted the expenditure of surveillance and significant resources.

MOE also stated in its conclusions that "there appear to be some shoreline activities that would fall under the jurisdiction of the MNR and [it] would be the one window approach to any possible resolution of the issue".

ECO Comment:
MOE was within its legislated rights under the *EBR* to deny this application for investigation. MOE should have been more specific in its rationale and should have referred to the subsections of the *EBR* which validated its decision to deny an investigation. MOE found no evidence to suggest that the allegations were serious enough to warrant an investigation and it determined that some of the allegations were more a case of neighbour-to-neighbour disagreement than a significant threat to the natural environment.

However, MOE stated that another reason for denying the application was that some of the alleged shoreline activities appeared to fall under the jurisdiction of MNR and would therefore be addressed through the one-window issue resolution process, with MNR as the lead agency. MNR in its response to an application for investigation of the alleged contraventions under their domain found it within their rights to deny an investigation based on the fact that MOE and the Department of Fisheries and Oceans (DFO) would also be reviewing the issues raised in the application. Subsection 77(3) of the *EBR* states that there is no requirement for a minister to duplicate an ongoing or completed investigation. The result of this passing of responsibility onto other agencies or ministries by both MOE and MNR has meant that the applicants' concerns, in particular those related to water quality issues under the *OWRA* remain unresolved. The ECO echoes its previously stated (see the 2001/2002 Annual Report) concerns with the weak enforcement of *OWRA* contraventions by MOE, especially those that also entail possible federal *Fisheries Act* violations. As well, the ECO is concerned with the inconsistency of ministry responses under the one-window approach to issue resolution that this application for investigation has demonstrated. Each ministry should have clearly explained which aspects of the investigation were its responsibility.

The applicants have also expressed concern over MOE's denial of their application for investigation "based on the information provided in support of this request for investigation," on which it recommended no further action be taken. As was the case with I2001008 (MNR), the applicants felt that the denial of their application did not fully address the ongoing nature of the alleged activities of their neighbour. The ECO has explained to the applicants that an application for investigation cannot be based on a belief that a contravention may occur. If at the time of submitting an application the evidence presented supported the allegation that a violation had already occurred, then whether or not the alleged activity is ongoing or repeated should make no difference to the outcome of the application process. A sworn affidavit is required with all applications submitted under the *EBR,* wherein each applicant swears against the evidence presented within. Each new piece of evidence in theory therefore requires a new sworn affidavit. The applicants were informed of their right to request another investigation based on the new evidence they have collected.

The ECO has directed the applicants to the federal Commissioner of Environment and Sustainable Development and the Ontario Ombudsman's Office if they would like to pursue further action, and has informed the applicants that their concerns may be within the mandate of the municipal government and outside the legal authority of the *EBR.*

Review of Application I2001010:
Alleged *EPA* Contraventions by Safety-Kleen
(Investigation Denied by MOE)

Background/Summary of Issues:

An application for investigation under the *EBR* was submitted to the Ministry of the Environment requesting an investigation into a chemical vapour release on September 20, 2001 at the hazardous waste incinerator in Corunna, Ontario, then owned by Safety-Kleen. The applicants had heard that a work refusal by Safety-Kleen staff occurred after a seam ruptured in a holding tank filled with a mixture of chemicals as it was being vacuumed out. Employees at the plant suffered nausea and headaches and six of them were sent to hospital. The applicants asked MOE to investigate whether the incident was a contravention of section 14(1) of the *Environmental Protection Act* (*EPA*), which prohibits the discharge of a contaminant into the natural environment that causes or is likely to cause an adverse effect.

The applicants also complained that nearby residents and the larger community were not informed of the release, and found out about it only weeks later when it was reported in the local newspaper. Because they believe that the operation of the incinerator poses a danger to the environment and the health and safety of people living around or working at the site, the applicants believe the incinerator should be shut down.

Ministry Response:

In denying the request for investigation, the ministry referred to the observations and actions of the on-site environmental inspector, who was present during the incident. According to MOE, the incident occurred when a vacuum truck operated by a contractor was brought in to remove liquid hazardous wastes from a large storage tank scheduled for clean-out and repair. The on-site environmental inspector said the vacuum truck operated without effective vapour control measures, resulting in an uncontrolled release of vapours.

MOE said the inspector observed the strong odours and equipment malfunction and informed the company of the need to take action to shut down the vacuum truck operation and contain the odours. The on-site inspector had also noted odours north of the site earlier in the day, but did not specifically indicate a connection between the odours off-site and the emission of odours from the activities associated with the clean-out of the holding tank.

The ministry said that because of the complaints received from workers, an inspector from Human Resource Development Canada, the federal department responsible for enforcing the Canada Labour Code, was on site the afternoon of the incident. (Actually, the inspector was in contact by phone on the day of the incident, but was not on-site until the following day). An Order was later issued under the Canada Labour Code.

MOE said that neither the ministry nor the company received any odour complaints from the public regarding off-site impact, and thus concluded that there were no off-site environmental impacts as a result of the emission. MOE decided that the impact was limited to workers on-site, that the matter was appropriately dealt with by Human Resource Development Canada under the Canada Labour Code, and that no further investigation was necessary under the *EPA*.

The ministry did not respond to the applicants' more general concerns about the emission standards or the safety of the facility.

ECO Comment:
Although MOE put forward a number of reasons for denying this application for investigation, the ECO's review has not found them to be convincing. MOE's reasons for denying the application included the following: the incident was caused by the actions of a contractor; the incident was a one-time-only event; there were no off-site impacts; and a federal agency was appropriately dealing with the incident. The ECO considered each of these points.

MOE explained that on the day of the incident a contractor's vacuum truck was removing liquid waste from tank 15, and that air discharged from the truck's vacuum system caused strong odours on the Safety-Kleen property.

MOE described the incident to the applicants as a one-time-only problem. However, the federal Human Resources Development Canada (HRDC) Report and file on its investigation provides an explanation of the incident that differs from MOE's. The HRDC Report found evidence of ongoing problems with vapour releases from the tank farm, and made no mention of the vacuum truck as a factor. The federal investigator's report concluded that tank 15 had a split along a weld seam that permitted gaseous vapours to escape, constituting a danger to employees. The split had been discovered in December 2000, but the company decided to postpone tank clean-out and repair until the following winter in order to focus on demolition of another obsolete tank. The split of tank 15 was patched with fiberglass frequently from January to September 2001, but the repair failed repeatedly, apparently because of pressurization within the tank. On the day of the federal investigator's site visit, September 21, 2001, the company was directed under the Canada Labour Code not to use or operate the tank until it had been appropriately emptied and repaired.

The HRDC investigation discovered numerous related odour complaints from Safety-Kleen employees to management dating from January 2001 and increasing in frequency during July, August and September of 2001. The files also show continuing odour complaints, formally lodged with the company and forwarded to HRDC, related to the tank 15 clean-out as late as January 2002, contrary to MOE's assurance that "the clean-out of Tank 15 has since been completed with no further complaints."

Because there is an on-site inspector in place, MOE should have been aware of chronic problems at this site, and have been monitoring whether they pose any contraventions of the facility's certificate of approval (C of A) or section 14 of the *EPA*, or whether they constitute a spill under the *EPA*. In response to a follow-up question from the ECO, MOE stated that there is no requirement in the facility's C of A requiring public notification of an incident of this nature. However, the descriptions provided would indicate that the incident was in fact a spill under the *EPA*, because a spill includes a discharge of gas into the natural environment from a structure, vehicle or other container that is abnormal in quality or quantity and causes or is likely to cause an adverse effect. As such, the incident should have required notification to the municipality and to MOE, as well as the duty to act to prevent and eliminate the adverse effect.

MOE's conclusion that there were no off-site impacts from this incident is irrelevant. Property boundaries and the absence of public complaints are not relevant to such considerations. The requirement for an offence under section 14 of the *EPA* is that there be a discharge into the natural environment (the air) that caused an adverse effect. In this case, the adverse effect was apparently "harm or material discomfort" to the persons present. The facts as presented support the conclusion that there was such an occurrence.

The on-site inspector is supposed to bring any issues of non-compliance to the attention of MOE's Sarnia District Supervisor for appropriate follow-up. Notification can be made by means of an immediate phone call, but at a minimum, includes a daily report of any unusual occurrence and actions taken. The ECO asked MOE whether ministry staff investigated or completed an occurrence report in addition to the on-site inspector's report, and if so, requested a copy. MOE confirmed that ministry staff did not document the incident in the ministry's computerized occurrence reporting system or carry out any follow-up. It is noteworthy that the incident was not identified as a spill under Part X of the *EPA* nor as a possible violation of section 14 of the *EPA*.

The inspector-MOE relationship is currently undergoing a change. Until January 2003, the on-site inspector at this facility was not an MOE employee. As of April 2003, the on-site investigator was an MOE employee, an Environmental Officer. As of July 2003, MOE is planning to hire a new inspector, who the ministry says will obtain Provincial Officer designation. This means that in the future the on-site inspector will be able to write tickets and issue compliance Orders instead of having to refer non-compliance issues to the local MOE.

MOE determined that no further investigation was necessary under the *EPA* since the matter was appropriately dealt with by Human Resource Development Canada under the Canada Labour Code. However, the *EPA* does not relieve MOE of its enforcement responsibilities in cases where a federal agency takes enforcement action. Although an order was issued under the Canada Labour Code to address occupational health issues, the MOE retains the authority and responsibility to protect the environment.

A Court of Appeals Decision from March 2000 dealt with a remarkably similar event. In that case, a discharge of chlorine gas at a Dow Chemical plant in Sarnia caused one employee to sustain injuries. The court's ruling touched on many of the issues raised in this application for investigation. The judge in that case determined that section 14 of the *EPA* applies even when the discharge of a contaminant into the natural environment gives rise to an adverse effect that is limited to a worker in the workplace. The judge did not accept the on-site/off-site distinction proposed by the defendant. Furthermore, the judge determined that while the situation was covered by the *Occupational Health and Safety Act*, also a provincial law, the *EPA* still applies, stating that "… in my view, the purposes of the *EPA* are important and do not permit an interpretation that excludes the Act from operating at work sites." The defendant was convicted of discharging a contaminant into the natural environment and failing to report such discharge under the *EPA*, and was fined $8,000. MOE laid the charges for this incident, which occurred in 1991. In the intervening years, the ministry appears to have changed its approach to enforcing the *EPA*.

MOE provided poor customer service in the handling of this application for investigation. The ministry's response to the applicants was delayed by almost three months due to the OPSEU labour disruption, but the ministry failed to provide a letter or phone call to inform the applicants of the status of their application, requiring repeated inquiries by the applicants and the ECO. The ministry's response to the applicants did not include a contact person's telephone number or an offer to respond to questions.

Review of Application I2002001:
Alleged *EPA* and *OWRA* Contraventions at Ashbridges Bay (combined sewer overflows)
(Investigation Undertaken by MOE)

Background/Summary of Issues:

Several sewers discharge into Ashbridges Bay on Toronto's waterfront, on Lake Ontario. These sewers are combined sewer systems, meaning that during storms or snow melts they discharge a mixture of raw sewage and storm water into Ashbridges Bay, close to a popular beach area in Toronto's east end. In April 2002, a multi-agency government review described the uncontrolled flow of polluted stormwater and combined sewer overflows as the most significant cause of degradation of Toronto's waterfront. Also in April 2002, the Sierra Legal Defence Fund (SLDF) requested an investigation on behalf of three applicants, alleging that the City of Toronto was contravening two laws by discharging contaminated sewage at this location.

SLDF issued a news release publicizing its application, and describing the evidence submitted. The applicants collected water samples at combined sewer outfalls during rainfall events on two occasions in November and December of 2001 and submitted them for sampling to an independent laboratory. The laboratory analysis revealed very high levels of *E. coli*: up to 5,200 times the Provincial Water Quality Objective. The applicants alleged that the discharge of these waterborne bacterial contaminants was contrary to section 14 of the *Environmental Protection Act* and also contrary to section 30 of *the Ontario Water Resources Act.*

The applicants noted that the observed levels of *E. coli* at this sewer outfall were extremely high and could present a significant public health threat. They submitted documentation showing that very significant quantities of highly contaminated water may flow from the sampled outfall locations, since the outfall capacities range from 8 to 97 cubic metres per second. The applicants also noted that the source of contamination was likely to be human sewage rather than animal feces, based on the observed ratio of fecal coliform to fecal streptococcus bacteria. Since the sewer outfalls are in the vicinity of boating clubs offering children's courses, and since recreational fishing also takes place in the vicinity, the applicants concluded that a potential health risk exists.

The applicants also noted that the observed bacterial contamination is a well-documented chronic problem. They submitted City of Toronto reports and monitoring data dating back to 1986, showing that *E. coli* counts in the thousands (per 100 ml) are commonplace in Ashbridges Bay. They argued that the City of Toronto has not been working to bring this situation into compliance, but on the contrary, has been approving a significant number of new commercial and residential developments in the sewer-shed, thus placing further pressure on the sewer systems.

Ministry Response:
On June 28, 2002, MOE advised the applicants that the ministry would be investigating the allegations. MOE did not dispute the water quality problems noted by the applicants in Ashbridges Bay on the sampling day, but the ministry's investigation eventually concluded that the specific sampling results provided by the applicants were not adequate for a prosecution to proceed. Because the applicants' sampling results did not provide enough evidence for a prosecution, MOE did not thoroughly investigate whether the City of Toronto would have had a defence of due diligence. "Due diligence" is a legal term, meaning the exercise of reasonable and prudent care. However, the ministry's investigator noted "a reasonable prospect" that the City of Toronto would have a defence of due diligence. MOE's step-by-step investigation proceeded as follows:

On September 26, 2002, MOE informed the applicants that MOE's District Office staff had reviewed the allegations. MOE also provided the applicants with a brief report, but the report focused on questions only tangentially connected to the allegations, such as the historical approval mechanisms for Toronto sewers. Ministry staff had not found any evidence that the City of Toronto had built or modified CSOs or connected sewers without approval. MOE had also forwarded the allegations to its own Investigations and Enforcement Branch (IEB) for further assessment and investigation, while the Toronto District Office would continue to monitor activities in Ashbridges Bay area. The lawyer for the applicants wrote back that MOE's investigation was inadequate, partly because it did not attempt to verify or quantify the pollutants being discharged, and did not attempt to identify interim solutions.

On December 2, 2002, MOE's Central Region office wrote to the applicants, saying the ministry has not disputed the applicants' information about the water quality in the Ashbridges Bay channel on the day sampled. MOE's letter also noted that CSOs at the site contribute to poor water clarity, high concentrations of nutrients and bacteria, elevated concentrations of metals and organic contaminants, increased water temperature and accumulation of trash. MOE also noted that the reduction of excess flows was one of the goals of the ongoing Environmental Assessment process for Ashbridges Bay Sewage Treatment Plant.

On February 10, 2003, MOE's IEB wrote to the applicants, saying that IEB would not assign an investigator to this matter, because "there is not enough evidence, or likelihood of obtaining evidence to warrant assigning this matter to be investigated." The MOE included an IEB report which explained that the applicants had obtained water samples from the edge of sewer outfalls, instead of collecting the samples right inside the sewer system. According to MOE, it was critical to have samples collected right within the sewer system, for a prosecution to proceed. It was also essential to observe the inside of the sewer on the sampling date to determine whether an overflow was occurring at the time. As a final comment, the IEB report noted that based on the information available, there was a reasonable prospect that a defence of due diligence would stand.

The applicants outlined their concerns with the ministry's investigation in a March 12, 2003 letter to the ECO. They noted that MOE's approach in this case set a bad precedent for the Application for Investigation mechanism in general. They stated "From the perspective of the meaningful operation of the *EBR*, it is deeply disturbing that the Ministry of Environment would essentially require citizen applicants to meet the standard required internally by the IEB for prosecution. Such an approach all but excludes the general public from the Application for Investigation process. No ordinary citizen can be expected to prepare a ready-for court prosecution brief. Rather the process is intended to initiate the Ministry's fact-gathering process. In this case, that process has been woefully inadequate."

ECO Comment:
The ministry's actions were inadequate and contradictory. On the one hand, the ministry acknowledged that the water quality problems at Ashbridges Bay have been long-standing. The ministry agreed to investigate. Clearly, the ministry did not consider the application frivolous, vexatious, or unlikely to cause environmental harm, since the ministry did not turn down the initial request for an investigation. On the other hand, the ministry decided that the samples submitted by the applicants were not adequate for pursuing a prosecution, and the ministry decided not to carry out its own testing or to investigate the matter any further. In the end, MOE's "investigation" amounted to a paper review of ministry files. None of the usual investigation techniques were employed.

The ministry's refusal to properly investigate this matter frustrates the intent of the *EBR*, and the applicants in this case are justifiably concerned that this case sets a bad precedent for the application for investigation process. The applicants provided evidence to the best of their legal and technical ability, and requested that the ministry investigate further. It would be illegal and extremely dangerous for Ontario residents to attempt to collect water samples from within a sewer system. The ministry in contrast, has both the legal mandate and the technical ability to collect such samples. Since the sewer discharge is an acknowledged ongoing and long-standing problem, the ministry could have waited for another rainfall event to collect legal samples from within the sewer system. The ministry could then initiate an IEB investigation. This would have been a logical next step for the ministry to take, and would have conformed with the ministry's approach on two other recent *EBR* investigations described in this annual report. In both of those cases, MOE sent out staff to investigate the sites first-hand, and then followed up with abatement or enforcement action. (See pages 232-235 and page 267 of the supplement for related applications for investigation.)

In this sewer discharge case, the ministry's investigator noted "a reasonable prospect" that the City of Toronto would have a defence of due diligence, based on preliminary information provided to the investigator. The question of the City's due diligence would likely have become a key issue, if the ministry had collected legal water samples and had carried out a full investigation. Unfortunately, MOE chose not to address this complex question directly.

Evaluating the City's defence of due diligence would certainly have been a major undertaking for MOE, since it would probably have required evaluating the history of several complex, contentious, and inter-related initiatives: the Ashbridges Bay Sewage Treatment Plant Environmental Assessment (underway since 1998), and the City of Toronto's progress on a Wet Weather Flow Management Master Plan (WWFMMP). Toronto's WWFMMP has been in development since 1997, and is expected to have a capital cost of approximately $1 billion over 25 years. It includes plans to capture and treat combined sewer overflows and also to encourage infiltration of rainwater at source.

Some critics believe Toronto's WWFMMP places too much emphasis on engineered end-of-pipe solutions, and not enough emphasis on groundwater infiltration or ecosystem approaches. MOE, however, supports the overall thrust of the WWFMMP; MOE's Regional Director signed a letter on November 6, 2002, congratulating the City on the WWFMMP, and expressing support for its general direction. One indication of MOE's confidence is that the ministry is providing the City with $200,000 to carry out an assessment of how well the WWFMMP meets the Toronto and Region Remedial Action Plan Objectives.

Water quality in Ashbridges Bay/Coatsworth Cut will be addressed by the WWFMMP. An early version of the WWFMMP would have improved water quality in the bay to meet MOE requirements within 25 years, but not to a point sufficient to meet "body contact recreational criteria". The City heard from the public in October 2002 that the bay is used extensively by canoeing clubs and other recreational users. The City then modified the WWFMMP to include $12 million to be spent during the years 2008-2012 on additional storage/treatment for the remaining storm sewer discharging into Ashbridges Bay/Coatsworth Cut. It is expected that this control measure will eventually improve the quality of water discharged from the sewers sampled by the applicants.

Evidence at the Walkerton Inquiry showed MOE's historic reluctance to prosecute municipalities, especially in relation to communal drinking water. MOE has also tended to prefer a voluntary abatement approach when dealing with non- compliance by municipal sewage treatment plants (See STP Effluent Quality, pages 35-49 of this year's annual report). In keeping with this pattern, MOE's dealings with the City of Toronto's Ashbridges Bay Sewage Treatment Plant and the City's long-standing CSO issues (as well as this *EBR* investigation) have all emphasized voluntary measures rather than mandatory requirements or enforcement.

For example, MOE's 2002 comments on the Ashbridges Bay Sewage Treatment Plant Environmental Assessment "strongly recommend" that the City develop a program within two years of any EA approval to reduce and eventually eliminate secondary by-passing. MOE staff decided that a mandatory condition was not needed, because the City had only 12 by-pass events in the year 2001. Similarly, the MOE Regional Director informed the *EBR* applicants that the City of Toronto "is encouraged" to take certain actions on CSOs, which are "recommended" by MOE Procedure F-5-5, even though this Procedure contains a number of mandatory requirements. Procedure F-5-5 states that MOE "shall require" that provision of sanitary servicing for new developments be curtailed when significant combined sewer system deficiencies exist. Nevertheless, MOE has approved new sewers for redevelopment projects in the collection area of Ashbridges Bay.

MOE appears to by relying heavily on the environmental assessment process to influence water quality improvements along Toronto's eastern waterfront. However under this process, which is driven by the proponent, MOE has a limited ability to set the agenda or the timetable for environmental improvements. Although MOE could take a more assertive regulatory role by issuing control orders requiring improvements to Ashbridges Bay sewage treatment plant and sewer systems, this approach does not appear to be favoured by the ministry.

In contrast to its handling of sewer deficiencies at the City of Toronto, MOE does issue mandatory orders to some municipal sewage treatment plants. For example, in April of 2003, MOE issued an order requiring the municipality of Port Hope to upgrade its sewage treatment plant. In that case, the ministry's inspection report noted that the facility by-passed untreated effluent 11 times in the year 2002, and stated that "it is the Ministry's position that the frequency and continuation of sewage bypasses and solids bulking events are unacceptable." Until the upgrades are completed around the end of 2005, Port Hope will only be able to add 400 new units to its sewer system.

It is hard to assess the effectiveness of MOE's reliance on voluntary abatement to spur water quality improvements along Toronto's waterfront. As noted in an April 2002 multi-agency progress report, beach water quality has significantly improved at Toronto's eastern beaches. There are also now better controls on spills and industrial inputs to the sewers. But the same report also notes "However, overall most of the root causes of degradation are still in place and it will likely take decades to restore ecosystem health. Uncontrolled flows of polluted stormwater and combined sewer overflows remain as the most significant causes of degradation of Toronto's waterfront and watersheds." Similarly, a recent MOE report observed that "trends in Toronto's urban storm-water quality (as reflected in the Don River) suggest that conditions have not improved since the early 1990s and the current storm-water management practices will not be sufficient to effect further improvements in sediment quality" in the Toronto Harbour.

It is quite possible that MOE's staff and resources may be challenged and stretched by enforcement actions or mandatory orders issued to large and complex proponents such as the City of Toronto. But MOE is the key regulating agency on water quality issues in Ontario. MOE has a responsibility to maintain a viable abatement and enforcement capability, and should apply this capability equitably to large and small proponents.

Review of Application I2002002:
Alleged Contraventions of MNR's Timber Class EA Clearcutting Restrictions
(Investigation Conducted by MOE)

Background/Summary of Issues:
Sierra Legal Defence Fund made an application on behalf of Earthroots requesting the Ministry of the Environment to investigate whether MNR had contravened forestry rules relating to clearcut size. The applicants alleged that MNR violated the *Environmental Assessment Act* by not complying with Conditions 27(a) and (b) of the *Class Environmental Assessment by the Ministry of Natural Resources for Timber Management on Crown Lands in Ontario* (the Timber Class EA), which was in place at the time the application was submitted. (This Class EA has been revised and new rules are expected to be in place by June 2003).

After a lengthy public hearing the Environmental Assessment Board approved MNR's undertaking of timber management in 1994 subject to certain terms and conditions. One key condition addressed clearcut size. Condition 27 stated:

> *"MNR shall implement a restriction on clearcut harvesting requiring a range of sizes of clearcuts not to exceed 260 hectares. MNR shall also develop standards for configuration and contiguity of clearcuts which will ensure that the purpose of this restriction is not frustrated.*
>
> *(a) These restrictions and standards shall be incorporated into the Environmental Guidelines for Timber Management Activities specified in Condition 94(b).*
>
> *(b) Silvicultural Ground Rules shall be prepared with the objective of ensuring that clearcuts are planned to a range of sizes and not consistently approach or meet the permitted maximum. Where for sound biological or silvicultural reasons individual or contiguous clearcuts exceed 260 hectares, they shall be recorded in the Plan as an exception to this condition, with reasons provided."*
>
> *(c) MNR shall inventory and monitor clearcuts and exceptions to the maximum size restriction as well as configuration and contiguity. The results shall be in the Annual Report for the Forest Management Unit, in the Annual Report to the Legislature, in the five-year State of the Forest Report and in the review for the Minister of the Environment and Energy pursuant to Condition 114(A)(v)."*

The applicants described two distinct contraventions of this condition.

Alleged Contravention One
The first alleged contravention is that MNR failed to implement a restriction on clearcut harvesting with clearcut sizes not exceeding 260 hectares. The applicants submitted evidence from examination of forest management plans (FMPs) approved by MNR that the ministry had routinely permitted logging companies to plan clearcuts over 260 ha.

The application included evidence from three specific forest management units governed by FMPs approved in 1999 and 2000. Forest management plans set out the operations for a five-year period, so the clearcuts could be taking place at any time during the 1999-2004 or 2000-2005 period. In the Gordon Cosens Forest 76% of the planned cuts are clearcuts over 260 ha, accounting for 98% of the entire area cut in the unit. In the Wawa Forest 25% of the cuts are over 260 ha, accounting for 46% of the total area cut. In the Temagami Forest 29% of the cuts are over 260 ha, accounting for 71 % of all the area cut in the FMP.

The applicants believe similar violations would be evident in 2001 and 2002 plans but said that, given a recent change in ministry record keeping, it had become very difficult for the public to gain access to the relevant information. The applicants therefore requested MOE investigate at least two FMPs in the Boreal forest approved in 2001 and 2002.

Alleged Contravention Two
In response to Conditions 27(a) and 94(b), MNR developed the *Forest Management Guide for Natural Disturbance Pattern Emulation* (the NDPE Guide), in November 2001. The applicants alleged that MNR failed to incorporate the restrictions and standards of Condition 27 into the NDPE Guide, namely:

(i) "a restriction on clearcut harvesting requiring a range of sizes of clearcuts not to exceed 260 hectares"; and
(ii) standards for configuration and contiguity of clearcuts that would prevent the frustration of the 260-hectare restriction.

The NDPE Guide says:

> "Accordingly, eighty percent (80% - Boreal Forest) or ninety percent (90% - Great Lakes – St. Lawrence) of planned new clearcuts determined by frequency, beginning with plans to be approved in 2004, should be less than 260 ha in size (standard). MNR believes this is consistent with the EA Board's direction that clearcuts should not routinely exceed 260 ha."

The applicants believe that the frequency-based system for determining the allowed percentage of large clearcuts will result in the frustration of the restriction. They said that numerous small clearcuts can be intentionally created so that some very large clearcuts are permissible. There are no upper size limits on the remaining 10 and 20 percent of clearcuts, so the NDPE allows for most of the area harvested to be cut in a few very large clearcuts. The applicants stated that to comply with Condition 27 the NDPE would have to include both a frequency and area-based system for determining the allowed percentage of large clearcuts.

Ministry Response:
MOE investigated the allegations and concluded that MNR is in compliance with Condition 27 of the Timber Class EA Approval.

Alleged Contravention One
MOE stated that Condition 27 allowed clearcuts above 260 hectares, provided there are sound biological or silvicultural reasons for doing so and they are documented. MOE observed that the Condition did not specify the extent to which these exceptions should be permitted and the Board's written reasons for the decision did not set out any specific limitations. MOE concluded that "(a)lthough the Board may have anticipated that exceedances of the 260 hectare limit would be the exception rather than the rule, no numerical cap was ordered on the number of clearcuts which may exceed 260 hectares."

MOE reviewed the FMPs for the Wawa, Temagami and Gordon Cosens Forests and also examined two additional FMPs as requested, for the Big Pic (2002) and Dryden (2001) Forests. MOE's only comment was that all clearcuts over 260 ha were recorded as exceptions in the FMPs with reasons, as required by Condition 27.

Alleged Contravention Two
MOE examined the Board's reasons regarding Conditions 27 and 94(b) and observed that the Board had accepted MNR's directions in developing the new guidelines as presented at the hearing. MNR had proposed guidelines which would give direction on "allowed and required ranges (such as percentages by size class), which indicates a frequency-based approach to determining the allowed percentage of large clearcuts." MOE concluded that the Board's reasons did not specify whether the new guidelines should include both a frequency and area-based system for determining the allowed percentage of large clearcuts. MOE concluded that the NDPE Guide clearly includes the restrictions and standards and that it finds MNR's interpretation reasonable.

MOE also said that MNR developed the NDPE Guide with a wide range of experts and interests and extensive public consultation. MOE quoted from the ECO's 2000/2001 annual report to provide a description of MNR's public consultation efforts.

MOE also informed the applicants that it had posted a proposed Declaration Order regarding the Timber Class EA on the Environmental Registry. MOE stated the proposed renewal of the Timber Class EA contains proposed conditions regarding clearcuts and MOE invited the applicants to participate in the public consultation process.

ECO Comment:
A common sense reading of Condition 27 and the Board's reasons indicates that the Board intended to restrict the size of clearcuts to 260 hectares with few exceptions. The Board said that "MNR told us to ignore the public's opposition to large clearcuts. It said the opposition was uneducated and emotional and motivated by social and political pressure. MNR said our job was to explain to the public the necessity for large clearcuts. We disagree." MOE acknowledged that the Board intended exceedances of the 260 hectare limit to be the exception rather than the rule and the Board wrote right into its condition that it did not want the restriction to be "frustrated". Yet the evidence nine years later shows it was.

Rather than getting smaller, as intended by the EA Board, the actual size of average and maximum clearcuts has increased over the past few years. Average clearcut sizes in different management units reported for the boreal forest ranged from 29 to 479 hectares in 1997/98 and from 24 to 1,581 in 1999/2000. The same management units reported maximum clearcut sizes ranging from 59 to 2,119 hectares in 1997/98 and from 85 to 4,966 in 1999/2000. The largest single planned clearcut in a 2000 FMP submitted in this application was over 10,000 ha.

In FMPs approved between 1997-2001, even though over 80 percent of planned clearcuts were less than 260 ha, the majority of the area harvested was in clearcuts over 260 ha. MNR's Timber Class EA Review says "(t)his is consistent with the *Crown Forest Sustainability Act* principle to emulate natural disturbances and landscape patterns, and the sustainability indicator in the Forest Management Planning Manual, which requires FMPs to show movement towards emulation of natural disturbance frequency by size class."

The Board required MNR to report annually on the average and maximum size of clearcuts and to report its progress on implementing Condition 27. MOE was expected to consider the information collected under Condition 27(c) as well as long-term monitoring studies at the end of the approval period, in 2003. "The Minister of Environment and Energy will then be in a better position than we are today to decide if clearcut restrictions should be continued." MOE did not provide any analysis of the information collected through Condition 27(c) such as the statistics above which show overall trends, nor did it comment on the evidence submitted by the *EBR* applicants related to individual FMPs.

MOE determined that, despite the Board's intention, there is no restriction on clearcut size as long as all clearcuts over 260 ha are recorded with reasons in the FMP. As MOE concluded, the Board did not provide any numerical limits on the exceptions to the "260 hectare restriction." Condition 27 says on one hand that MNR "shall implement a restriction…not to exceed 260 hectares" but also says that "where for sound…reasons…clearcuts exceed 260 hectares, they shall be recorded in the Plan as an exception…" Because the Board did not limit the size or number of the exceptions, legally the condition permits any number of clearcuts of any size, comprising any percentage of a harvested area, providing that they are documented as exceptions in a forest management plan.

MNR's position at the EA hearing between 1988 and 1992 was that there was no credible evidence to support restricting clearcut size, and that large clearcuts were necessary to emulate natural forest fire disturbances. After the EA Board Decision, the ministry continued to develop its policy of emulating natural disturbances, writing that principle into the *Crown Forest Sustainability Act*. The ministry also prepared an analysis of historical fire records which was used in the preparation of FMPs, resulting in larger planned clearcuts. The policy was finalized in the NDPE Guide in 2001. The ECO's review of MNR's NDPE Guide appeared in the ECO 2001/2002 annual report and supplement.

The ECO is surprised that MOE would invoke our review of MNR's NDPE Guide as evidence in its investigation. MNR's public consultation efforts on the Guide have no bearing on whether the NDPE Guide is in compliance with Condition 27. A more relevant point about the public consultation is that almost none of the public or stakeholder comments were supportive of the Guide. In particular, we had reported that many commenters on the Guide had taken exception with the way MNR interpreted the EA Board's terms and conditions and its Reasons for Decision.

The ECO believes that the EA Board's "260-hectare restriction" was never really implemented, given the predominance of exceedances. It also could be argued that the Ministry of Natural Resources has never accepted the EA Board's position on clearcuts – and that the Ministry of the Environment has chosen to accept MNR's interpretation. The 260-hectare restriction, if implemented, would have conflicted with MNR's new policy direction now mandated in the *Crown Forest Sustainability Act* and the Forest Management Planning Manual.

The end of the nine-year EA Board approval period has arrived. As of the time of writing, it is proposed that the Board's Condition 27 will cease to exist when the revised Timber Class EA is approved by MOE. It has been replaced with a reference to MNR's "approved forest management guide, as revised from time to time, relating to the emulation of natural disturbance patterns." At present this refers to the NDPE Guide, with its frequency-based restriction on clearcuts over 260 hectares. As of May 2003, the proposed Timber Class EA renewal Declaration Order had been posted by the Minister of the Environment for public comment, and was expected to be approved before the existing Class EA expired in June 2003.

Review of Investigation I2002003:
Alleged *EPA* Contravention by Burning of Toxic Material in Garage
(Investigation Conducted by MOE)

Background/Summary of Issues:
This application for investigation concerned alleged contraventions of the *Environmental Protection Act* (*EPA*) by the owner ("owner") of a heating and air conditioning company at his residential property in Courtice, Ontario. The applicants allege that the owner routinely burned refrigerants or other hazardous materials, creating toxic fumes that have caused health problems.

The applicants state that the owner has burned materials in the garage attached to his residence for the last several years. The applicants assert that smoke and a strong odour are detectable from the residence of the applicant who lives next door to the owner. The affected applicant complains of nausea, headaches, sore throats, and difficulty breathing as a result of the owner's activities.

The affected applicant suspects phosgene toxicity as the cause and the medical problems are consistent with its symptoms. Phosgene is also known as carbonyl chloride, carbon oxychloride, and chloroformyl chloride. It is a colourless gas, with an odour similar to musty hay. Phosgene is also denser than air and may accumulate in low-lying areas. This gas may be created by the heating or combustion of chlorinated organic compounds, as found in common household solvents, paint removers, and dry cleaning fluids. Exposure to phosgene may also occur when welding metals treated with these chlorinated organic compounds. Historically, phosgene gas was used as a chemical weapon in both World Wars. It is currently used in the manufacture of insecticides and aniline dyes, as well as in the pharmaceutical industry and in metallurgy.

Ministry Response:
Prior to this application for investigation, in April 2001, MOE responded to a complaint alleging that the owner was burning refrigerants or other hazardous materials. The ministry did not take any action at this time.

As a result of this application for investigation, MOE inspected the property three times in the fall of 2002. Ministry staff observed an oil furnace and a welding kit in the garage. The owner asserted that he did not burn refrigerants or any other hazardous materials. The owner further stated that furnace oil was burned in the furnace for heating purposes during the winter and that the welding kit was used infrequently. The owner did tell MOE that he welds materials in his garage. Ministry staff did not observe any fumes or detect any odours during their three inspections.

MOE noted in its report on the investigation that the owner possesses a valid certification card, required by Ontario Regulation 189/94 under the *EPA*, that identifies the holder as having passed the required training to safely use refrigerants and maintain air conditioning equipment. The owner also provided MOE with records that account for the amount of refrigerant that he has purchased, recovered, and dispensed over the past two years.

Ministry staff interviewed nearby residents, none of whom had detected the toxic odours as alleged by the applicants. As a result of this investigation, MOE did not find evidence that the owner burned or improperly stored refrigerants or other hazardous materials on the property. MOE does state that it may proceed with additional inspections at a later date.

MOE met the technical requirements of the *EBR* in handing this application for investigation. The ministry received the application on June 10, 2002. The applicants were told that if an investigation was to be conducted, that it would be concluded by October 8, 2002 and they would be notified within 30 days as to its results. The applicants were mailed the summary of the investigation on November 1, 2002.

ECO Comment:
The ECO acknowledges MOE's diligence in conducting three site inspections during its investigation. However, the ECO is concerned that MOE did not fully address the concerns of the applicants. One applicant communicated to the ECO that the owner was not conducting the alleged activities during any of the inspections by ministry staff. While three inspections during the period of investigation are reasonable, the ECO encourages MOE to proceed with follow-up inspections at some point.

MOE did not address the applicants' concern with regard to phosgene toxicity. It appears that MOE only investigated the possibility of refrigerants or other hazardous materials being burned and the ministry did not explore the possibility that the activity of welding could inadvertently be the pollution source.

Review of Application I2002004:
Alleged *EPA* Contravention by SWARU
(Investigation Denied by MOE)

Background/Summary of Issues:
For nearly thirty years, the SWARU incinerator burned about 40-60 per cent of Hamilton's garbage, and was an environmental concern for many Hamilton residents. The ECO's 2001/2002 Annual Report described the incinerator's air emissions and ash management problems, after residents used the *EBR* to request a wide-ranging review of the facility's Certificates of Approval (C of A). That first *EBR* application, submitted in May 2000, had prompted the MOE to take a close look at the facility's handling of fly ash.

The incinerator produced up to 30 tonnes of fly ash per day. Fly ash is fine ash filtered from combustion flue gases, and may contain elevated levels of heavy metals and other toxins. From the time the incinerator started up in 1972 until 1990, fly ash was sent to the local Glanbrook Landfill site untreated, a legal form of disposal at that time. In 1990, new provincial rules came into effect, requiring fly ash to undergo a toxicity test. SWARU's fly ash failed this test, primarily because of high levels of cadmium and lead, and therefore, under the new rules it required much more expensive disposal at a hazardous waste disposal site.

In 1992, MOE granted the operators approval to treat the fly ash via a patented process, which was supposed to stabilize the heavy metals to the point where the fly ash could meet limits for disposal at the local municipal landfill. MOE discovered in 2000 that the treated fly ash had in fact exceeded regulated limits for cadmium and lead a number of times over the period 1994 – 2000, but that the fly ash was nevertheless deposited in the municipal landfill, in contravention of the C of A. The ministry found that required reports summarizing fly ash test results had not been submitted, and also found questionable analytical data for processed ash. Several investigations took place, amid high public interest and media attention. In 2000, Canadian Waste Service Inc, the contractor operating the incinerator on behalf of the municipality, hired a private investigator. MOE also launched an internal investigation by its own Investigations and Enforcement Branch (IEB), which was completed in June 2002, though results were not released. MOE stated that charges were not recommended.

In June 2002, two Ontario residents requested an *EBR* investigation of how SWARU's fly ash was handled over the period 1994-2000. The applicants alleged that Laidlaw Inc., which had managed the incinerator for the municipality for most of that time, had contravened the *Environmental Protection Act* by allowing an illegal discharge into a landfill site.

Ministry Response:
In August 2002, MOE denied the request for an *EBR* investigation, stating that the ministry's Investigation and Enforcement Branch had just finished investigating the handling of fly ash by SWARU's operators.

MOE stated that the alleged violations had been previously investigated, and that the request under the *EBR* was therefore denied; "An Investigations and Enforcement Branch investigation was completed in June 2002 and did not recommend any environmental charges. The reasons for not recommending charges were due to insufficient evidence, the age of some of the offences and that a conviction was unlikely." Thus, it would have been difficult for MOE to assemble evidence and for witnesses to provide accurate recollections of the events that led up to the alleged contraventions. Specifically, MOE stated that alleged violations of section 6(1), 7(1) and 156 (1) of the *EPA* had already been investigated.

The ministry's reasons for denying the application are valid, because there had already been another detailed investigation, but the ministry failed to share the results of that investigation with the applicants. Although the ministry acknowledged that fly-ash was not consistently stabilized or analysed between 1994 and 2000, the ministry provided the applicants with no details on this point. MOE did not describe the inconsistencies in the stabilizing or analysis of fly-ash. MOE did not address the applicants' question of whether there might now be hazardous waste in the Glanbrook Landfill. The ministry also ignored a question about its own capacity to monitor and require compliance with the fly-ash disposal rules from 1994-2000. MOE also did not respond to the question of whether ministry rules (such as the C of A) allowed the operators of the incinerator to deposit potentially hazardous waste in the Glanbrook Landfill.

The ministry provided a lot of detail on the current testing and handling of fly ash, but did not provide any detail on the past handling of fly ash over the period 1994-2000, which was clearly the key issue of concern for the applicants. The ministry did provide a brief explanation of why charges were not laid after the IEB investigation: "insufficient evidence, the age of some of the offences and that a conviction was unlikely." The ministry emphasized that the handling and disposal of the fly ash after January 2001 became subject to a number of checks and balances. The ministry's response to the applicants also failed to mention that a new C. of A. for SWARU had recently been posted on the Registry with a thirty day comment period, and that the comment period was in fact still open until August 21, 2002.

ECO Comment:
The ministry was justified in denying the June 2002 *EBR* request for an investigation of fly ash handling, since ministry staff had just completed a detailed IEB investigation of the same issues. But the ECO is very troubled by the ministry's failure to share a summary of the IEB investigation results with the applicants. The applicants had specific questions about past practices, and the ministry had the answers available, but chose not to reveal them. This secretive approach is extremely frustrating to applicants and runs counter to the spirit of the *EBR*, which encourages transparency in government. In November 2002, the ECO asked MOE for an opportunity to review its June 2002 investigation report. The ministry agreed to let ECO staff view the report. Two months later, some of the related records became public after a request under the *Freedom of Information and Protection of Privacy Act*. However, a summary of the investigation report itself has not been made public.

In 1992, the operator of the facility at the time (Laidlaw Inc.) proposed to stabilize the fly ash using a patented process that would prevent the toxic metals from leaching out. This would allow Laidlaw to dispose of the fly ash at the local municipal landfill site – a much cheaper solution. MOE issued a provisional Certificate of Approval to Laidlaw which allowed this approach, but which required a semi-annual summary report of the solidification process to be submitted to MOE. But from 1994 to 2000, results were not submitted to MOE, nor did MOE request the data.

The released records show that the applicants were justified in their concerns regarding ash handling and disposal by SWARU's operators. There were irregularities in how the incinerator operators treated test results. Investigators found examples of altered data, and examples where records of failed samples were not kept on file. Investigators also found an instance where analytical results of fly ash samples were substituted.

The released records also showed that the patented fly-ash stabilization process did not always work properly. As early as 1993, MOE staff wrote to facility operators expressing concerns about high levels of cadmium in the supposedly stabilized fly-ash . But MOE did not continue to monitor this situation. In 1998, the incinerator owners installed new equipment to improve the efficiency of the fly ash stabilization process. MOE issued an amendment to the C of A to allow this new equipment to be installed, and decided that this amendment needed no public consultation. But MOE did not check whether the new equipment affected lead and cadmium levels in the processed fly ash, nor did the ministry notice at that time that required reports on leachate testing results had not been submitted for several years. From 1993 onwards, MOE did not audit the operator's compliance with conditions of the incinerator's C of A. Consequently, MOE staff did not notice until the year 2000 that required testing results were not submitted. Since MOE did not raise concerns about the missing testing results, both the owners and the operator of the incinerator believed it was not necessary to submit the results to the ministry.

In 1996, Laidlaw Inc. was among companies bidding for renewal of the contract to manage SWARU for the municipality of Hamilton. Laidlaw Inc. stated that its fly-ash stabilization patent was a viable process. This was despite the fact that company staff had lab results showing the treated fly-ash exceeded leachate criteria on numerous occasions. The stabilization process allowed significant cost savings for the municipality for fly ash disposal. Laidlaw Inc. won the renewed contract to manage SWARU. Canadian Waste Services assumed the contract when Laidlaw was sold.

It seems likely that during the seven year period from 1994-2000, SWARU operators deposited a number of loads of fly ash at the Glanbrook municipal landfill, even though they may not have been properly stabilized and had unacceptably high cadmium levels. However, untreated fly ash was also quite legally deposited at Glanbrook from 1972 until 1990. It would be practically impossible at this point to locate buried fly ash at the landfill site or to distinguish between legally and illegally dumped loads. However, there are lessons to be learned from this case.

The history of MOE regulation of the SWARU incinerator between 1993 and 2000 underscores several points that the ECO has emphasized in past annual reports. The first is that MOE must focus adequate attention and support to the routine compliance and enforcement work at the ministry's regional offices. MOE regional staff failed to audit compliance with the C of A conditions for SWARU or inspect the facility's handling of fly ash from 1993 until 2000, even though this aging incinerator was a well-known major source of air emissions, and the focus of many complaints from local residents. If MOE had insisted that the facility comply with existing terms and conditions of the C of A, the problems with fly ash handling might not have occurred.

The second point is that MOE needs a strategy and the capacity to review older Cs of A. and ensure they are updated to reflect current standards in environmental protection. The ECO and the Provincial Auditor have both raised this concern in the past several years. Approvals generally do not have expiry or renewal dates, and approvals granted before 1983 included few conditions. The SWARU incinerator is a case in point. The facility was built in 1972 and had a number of Cs of A. MOE had imposed many amendments to the facility's Cs of A over the years, but until local residents used the *EBR* to request a review, the ministry had not undertaken a comprehensive review of this major emission source. In 2000, MOE acknowledged to the Provincial Auditor that outdated Cs of A are a systemic problem, and committed to improvements through a new Integrated Divisional System. It is unclear what progress MOE has made on this front.

The third point is that MOE needs to become more transparent in its dealings with the public, and needs to encourage permit-holding facilities to take the same approach. If MOE had shared key information with the public earlier, some of the problems at SWARU might have been caught earlier. In 1997, the regional municipality established a formal community liaison committee for SWARU, to review the incinerator's operation. But members of this committee were not allowed to review the process for stabilizing the fly ash, and also were not allowed to see supporting documents which were the basis of MOE's decision in 1992 to permit the stabilizing of fly ash. In 1998, former members of this committee raised concerns about fly ash handling at the SWARU incinerator, and questioned the long-term effects of disposing this waste at landfill sites. But MOE did not pursue the issue until the summer of 2000, after a request for review had been submitted under the *EBR*.

SWARU now closed

Over the last few years, SWARU's air emissions, noise and odour problems and deteriorating condition had become a topic of frequent debate at Hamilton City council. The municipality had been planning to close the incinerator at the end of 2006, because the facility would have required expensive new pollution controls to meet tougher new Canada-wide Standards for dioxin and furan emissions which will come into force then. But closure plans were greatly accelerated in October 2002, after MOE issued an amended C of A for the facility, which set tougher new terms and conditions for operating the plant. This tougher, updated C of A was the end result of a major review of the facility, which had been precipitated by the May 2000 *EBR* application for review. The ECO commends MOE staff for carrying out this review and for insisting on environmental improvements at the facility. In November 2002, the municipal council voted to close the incinerator permanently in December 2002, rather than spend more funds to upgrade the 30-year old plant.

Review of Application I2002005:
Alleged *EPA* Contraventions by Asphalt Plant
(Investigation Undertaken by MOE)

Background/Summary of Issues:
The applicants alleged that an asphalt plant operating in Horton Township, Renfrew County, released dust and a tar-like odour and creates excessive noise. The dust and odour affect neighbouring properties, including that of the applicants who reside in the vicinity of the plant. The applicants alleged that the plant was violating sections 9 and 14 of the *Environmental Protection Act* and Regulations 346 R.R.O. 1990 (pertaining to general air pollution) and 349 R.R.O. 1990 (pertaining to hot mix asphalt facilities) under the same Act.

Ministry of the Environment (MOE) officials from the Ottawa District office had conducted an inspection of the plant in June 1999. The inspection report concluded that: "the plant seems to be operating in compliance with sections 3 and 4 of Regulation 349 but there are a number of areas where improvements could be made." The ministry required the plant to take a number of actions including ensuring that its equipment is in good repair and all pollution control equipment is operating at optimal efficiency.

Ministry Response:
In September 2002, MOE informed the ECO that it was undertaking an investigation. The ministry expected to complete the investigation by November 5, 2002 and give notice by December 5, 2002. The ECO did not receive notice by this date. On January 17, 2003, MOE informed the ECO that the expected completion date for the investigation had been changed to April 4, 2003. On April 28, 2003, MOE informed the applicants of the outcome of the investigation.

ECO Comment:
The ECO will review the application in the 2003/2004 fiscal year.

Review of Application I2002006:
Alleged *EPA* Contraventions by an Auto Wrecker
(Investigation Approved by MOE)

Background/Summary of Issues:

The applicants allege contraventions under Section 14 of the *Environmental Protection Act* (*EPA*) by two private citizens. One of the applicants lives and owns a summer cottage resort on the neighbouring property to the "storage facility" of dilapidated vehicles.

The applicants' primary concern is possible well-water contamination due to the off-site migration of petroleum products from the alleged contravenors' property. At the time this application was submitted, water samples that the applicants had collected from their well were undergoing laboratory tests. The applicants claim their water supply became "foul-smelling" sometime after the introduction of the dilapidated vehicles on the neighbouring property.

To support their allegations, the applicants provided a local newspaper article that suggested that the alleged contravenors' commercial activity is impacting the quality of water in the surrounding area. The article referred to the Muskoka Mobile Home Park in Kilworthy which at the time, was under investigation by the MOE after water samples indicated the presence of petroleum products. The alleged contravenors are believed to own property in this area on which they operate a car-demolishing site.

The alleged contravenors' property is located in a residential-zoned area, not a commercial one. In May 2002, Gravenhurst Town Council gave final approval for a zoning amendment to permit the motor vehicle storage facility as a home occupation. However, the applicants claim business began prior to the amendment of the by-law. The applicants discovered several changes to the property and surrounding area prior to the by-law amendment. There was an increase in vehicle traffic in the area which included a 50-foot truck delivering and removing vehicles. Additionally, a gate and sheds were installed on the property.

Finally, the applicants feel that permitting the vehicle storage facility is incongruent with the principle for development south of Gravenhurst's urban centre. The intention is "to improve the façade of existing buildings and ensure high quality façades for new development."

Ministry Response:

MOE received the application for investigation on July 08, 2002. On August 27, 2002 MOE advised ECO that it would proceed with an investigation. A notice of the outcome of the investigation was not received as of April 2003.

ECO Comment:

The ECO will review this application once the MOE investigation is complete.

Review of Application I2002007:
Alleged Unauthorized Waste Disposal Site at Wigamog Inn, Haliburton
(Investigation Undertaken by MOE)

Background/Summary of Issues:
The applicants alleged that the owner of the Wigamog Inn in Haliburton was operating an illegal waste disposal site on the Inn property, contrary to Section 14 of the *Environmental Protection Act*. The property where the waste disposal site operated abuts the applicants' property, and was said to contain discarded air conditioners, bar fridges, tires, oil containers, furniture and other debris. Photographs and detailed descriptions of the debris were provided by the applicants. The photographic evidence very clearly identified the nature and extent of the problem.

Ministry Response:
On July 31, 2002 an MOE Compliance Officer visited the site and confirmed the presence of some of the identified waste materials, but also noted that much had already been removed. As a result of the site inspection, the Officer issued, that day, a Provincial Officer Order under the *Environmental Protection Act* requiring the removal of all waste to an approved municipal waste landfill by August 14, 2002 and requiring the owner to provide receipts from the landfill by August 16, 2002. The Order permitted the Inn owner to retain brush on the site.

According to MOE, a representative of the Wigamog Inn notified the ministry on August 14, 2002 that the waste had been removed from the property in accordance with the Provincial Officer Order. Receipts were provided to verify that the materials were properly disposed.

ECO Comment:
The ECO acknowledges the effort expended by MOE to achieve a satisfactory outcome in this situation. The applicants had previously complained to MOE regarding the matter that was the subject of this application for investigation. The applicants filed their *EBR* application. After receipt of the application, an MOE officer visited the identified site and issued a Provincial Officer Order requiring that the site be cleaned up. Later, a representative of Wigamog Inn wrote to the MOE officer indicating that the clean up had been undertaken and that the waste had been taken to a proper disposal site.

Review of Application I2002008: Alleged *EPA* and *OWRA* Contraventions at Genoe Landfill (Review Denied by MOE)

Background/Summary of Issues:
The City of Owen Sound operates the Genoe Landfill (the "landfill"), a small municipal waste disposal site (approximately 10 hectares) which was sited and constructed in the early 1980s. The landfill is situated about 12 kilometres northeast of the City of Owen Sound, near the village of Annan, Ontario. The applicants who live near the landfill submitted an application for investigation under the *EBR* alleging contraventions of several environmental laws. These allegations were a result of the applicants' living in close proximity to, and/or monitoring the operation of, the landfill:

1. that neighbours have lost enjoyment of the normal use of property, in contravention of the *Environmental Protection Act*. The applicants alleged that noise, odour and traffic impacts from landfill activities have led to a loss of enjoyment of normal use of property by neighbours. Noises include the back-up warning signal of trucks, tailgate/swing-gate opening and closing, bulldozer noise and shrieking of seagulls (a photograph provided depicts a flock of more than 100 seagulls evacuating the site). The applicants identified leachate and garbage as sources of odour. The landfill has allegedly led to an increase in truck traffic, road deterioration (photographs included show some tire/lane rutting and some pavement fracturing), and fugitive trash strewn on local roads (a photograph depicts two boxes and some paper on a roadway);

2. that leachate has been allowed to enter ground water in contravention of the *Ontario Water Resources Act*. The applicants expressed the concern that leachate may be contaminating the local watershed. Text from the landfill's 2000 (annual) monitoring report and memoranda exchanged between an MOE hydrogeologist and environmental staff of the City of Owen Sound indicating that elevated levels of certain water quality parameters were found in groundwater on-site, and a stream off-site, were provided in support of their allegation. (Also included in these texts were the explanations from the landfill monitoring consultant for the elevated levels and rationales as to why these incidents did not constitute a contravention of the *EPA* or *OWRA*.);

3. that the landfill operators have failed to consistently apply adequate cover material in contravention of Regulation 347, RRO 1990. The applicants noted that residents have observed and photographed uncovered garbage (photographs depict open edges and faces of garbage mounds ranging in size from (approximately) a few metres to tens of metres). Allegedly, garbage has been left uncovered over weekends on numerous occasions allowing: the wind to blow trash off site, odour problems to develop and seagulls to infest the site;

4. that the landfill area is visible from the road in contravention of Regulation 347, RRO 1990. The applicants claim that an agreement permitting the landfill at this site specified that the landfill would not be visible to the public. A photograph provided by the

applicants indicated the visibility of a small portion of the landfill from a distance of a few hundred metres (approximately);

5. that the landfill operators have failed to control odour from the landfill, in contravention of Regulation 347, RRO 1990. The applicants allege that odour results because the alleged contravenors regularly failed to apply cover material.

In support of the application, dozens of questionnaires completed by neighbours were attached. The responses in the questionnaires outlined local concerns, such as any negative impacts residents were experiencing because of the landfill.

Ministry Response:
MOE denied this investigation request. The ministry reviewed the operational compliance history of the landfill by reviewing its files and the landfill's reports in MOE's Occurrence Report Information System for the years 2000, 2001, 2002. The ministry advised the applicants and the ECO that it had responded to all complaints about this landfill for the 2.5 year period prior to the submission of the application and MOE staff had taken action, and ensured follow-up by the City of Owen Sound. MOE's letter to the applicants included the following record of events relevant to the concerns raised in the application:

- On loss of enjoyment of normal use of property by neighbours the ministry indicated that it had 3 complaints on file related to odour, that they were investigated and that remedial action was undertaken on the leachate collection system to prevent future occurrences. On truck related impacts, the ministry noted it had "not received any complaints regarding the use of non-designated truck routes or road conditions."
- On leachate entering ground water and potential *OWRA* contraventions, the ministry noted that the "groundwater monitoring program indicates that landfill leachate has impacted the shallow overburden aquifer south of the fill area however, there is no indication from the monitoring program that off site impacts are occurring."
- On the failure of operators to consistently apply adequate cover material (Regulation 347, RRO 1990, s.11) MOE effectively concurred with the applicants. In her letter to the applicants, the MOE director said that, in July 2002, "The City was advised of Ministry concerns regarding cover and agreed to provide additional cover."
- On whether the landfill area is visible from the road, the ministry responded that "The landfill is surveyed annually and results recorded to show that landfilling and contours are within CofA limit. Stakes are also provided to guide filling operations to ensure the landfill is within the approved contours and any agreement regarding the visibility of the landfill is an issue between the parties to the agreement."
- On failure to control odour from landfill, as noted above, the ministry indicated that the leachate collection system was repaired to prevent future outbreaks.

MOE staff reviewing this application elaborated on the complaint response record detailed above and mentioned their consultation with staff from the Owen Sound district office, before concluding that there was no basis to proceed with the investigation.

ECO Comment:
The applicants have detailed a number of problems they have observed related to the operation of the Genoe Landfill. MOE responded by detailing the complaints it has received about this landfill and its response to the complaints. In doing so, MOE implied that it is satisfied that adequate follow-up occurs when complaints are made and when the landfill operators are advised or directed by MOE to follow a course of action. The applicants believe that they are experiencing a loss of enjoyment of property because of adverse effects from the landfill's operations. MOE did not tell the applicants or the ECO if they had made a determination as to whether the problems outlined by the applicants constituted one or more adverse effects, or if the allegation of the loss of enjoyment of property can be substantiated. MOE did respond to most of the concerns the applicants raised, and explained what has been done in the past to deal with the problems, but did not provide any assurances that operating practices will improve at the landfill. The ECO is concerned that MOE did not fully address the concerns of the applicants. Furthermore, MOE did not provide a person to contact or phone number, should the applicants require more information

The ECO also sought and reviewed the reports in MOE's Occurrence Report Information System (ORIS) for this landfill as well as its certificate of approval. These provided insight into the operation of the landfill and MOE's oversight of it. The Genoe Landfill's Certificate of Approval ("C of A") was issued in 1983 and as such is not as detailed as some more recent certificates of approval for landfills. For example, the C of A does not include any specific conditions addressing: vermin (i.e., seagulls) control measures; road rutting from repeated use by waste trucks; minimizing truck noise; site perimeter screening; complaints procedure or various other specific problems described by the applicants.

The C of A does include some specific language about leachate and gas monitoring. Specifically, the requirement that the "City of Owen Sound with a consultant shall develop a schedule namely for the construction and implementation of leachate and gas control systems including criteria to start the operation of the systems." This C of A condition and others are intended to "ensure that the Ministry of the Environment and the operator of the landfill site will be totally aware of the impact of the landfill on the landfill property and adjacent lands….data with respect to leachate and gas migration will also provide sufficient warning to the Ministry and the operator in the event that any preventative measures have to be taken to control leachate or gas, and thus avoid the creation of a nuisance and a hazard to the health and safety of any person." The ECO believes MOE could have provided information to the applicants and the ECO about the nature of leachate control in place and the trigger value or condition that would prompt further action. MOE should also consider updating the Genoe Landfill's C of A to ensure that the ministry has adequate provisions to enforce modern environmental standards. The ECO acknowledges that MOE has responded to complaints received about odour near the landfill, and took action when the City of Owen Sound reported a leachate discharge at the landfill.

Events which were reported to ECO after the application was denied further suggest that MOE could have been more active on the leachate management issue. In a letter forwarded to the ECO, in which the applicants expressed disappointment over MOE's decision not to investigate the Genoe Landfill, the applicants also pointed to some irregularities in the handling of a leachate incident. The applicants stated that leachate was being treated at a sewage treatment plant with only primary treatment capacity (not secondary) and that the City of Owen Sound failed to communicate, on a timely basis, to the landfill's host municipality about a leachate breakout.

As for the burial of waste, MOE pointed out to the applicants in its response, that the ministry had requested the City of Owen Sound to provide addition cover for the garbage. Nonetheless, the issues of straying of litter and landfilled garbage going uncovered appear to require continued attention, i.e., beyond what enforcement action by MOE has achieved to date.

The ECO recognizes the difficulties that some residents face trying to achieve an adequate resolution of nuisance matters. Since the application for investigation for Genoe Landfill did not result in any significant new abatement efforts, concerned residents may need to continue seeking a resolution to this landfill's odour, litter and uncovered garbage issues through the existing complaints procedure. By MOE responding in the way that it did, the ministry appears to be telling the applicants and the ECO that the complaints procedure is working. The ECO believes that the ministry could undertake or order some progressive measures such as the updating of this landfill's C of A, an order to install or improve site perimeter screening, the establishment of a public liaison committee and more action-oriented responses to complaints.

On a final note about procedure, MOE was several days late notifying the applicants of the denial of this investigation. During this delay, the applicants were under the assumption that the investigation was proceeding. ECO concurs with the applicants that MOE failed to meet the deadline set out in the *EBR* which led to artificially raised expectations and served to temporarily mislead the applicants.

Review of Application I2002009:
Alleged Contraventions by Township of Severn's Proposed Westshore Water and Sewage Project
(Investigation Denied by MOE)

Background/Summary of Issues:
In August 2002 the ECO received an application for investigation from members of the Westshore Citizens' Coalition alleging that the Township of Severn's proposal to construct a sewage treatment plant and a communal water supply system on the west shoreline of Lake Couchiching contravened several statutes. The applicants expressed concern with the planning process under the Class Environmental Assessment process and the potential impacts this project would have on the natural environment. In particular the application alleged that the proposed Westshore Water and Sewage Project contravened the following:

- *Environmental Assessment Act, s. 11.4*
- *Ontario Water Resources Act, s. 52(4)(e) and s. 53(4)(e)*
- *Environmental Protection Act, s. 14*
- *Pesticides Act*
- *Waste Management Act*

The applicants alleged that the Township of Severn's proposal contravened the above statutes for the following reasons:

- There were inadequacies in the proposal's Certificates of Approval;
- The proposal did not address important environmental issues such as well water contamination and by-pass risks;
- There were planning and design problems;
- The proposal would cause fish habitat disruption in Lake Couchiching;
- The cost of the project was too great; and
- The proposed project would degrade water quality in Lake Couchiching (see also I2002010).

The Westshore Sewage and Water Project was planned under the *Municipal Engineers Association Municipal Class Environmental Assessment for Municipal Water and Wastewater Projects* in 1996. Following a public consultation process, the Class EA process was completed in 1997 and the project was approved under the *EAA*. After the Class EA was completed, the Ministry of Environment (MOE) issued two Certificates of Approval (C of A) for the communal water supply system and for the sewage treatment facility. Funding delays meant that the Township was unable to begin construction on the project until quite recently. The current status of the project is that no construction can proceed until the final plans are submitted and approved by the MOE's Director responsible for sewage and waterworks approvals. Under the conditions of the original Class EA, if more than five years have passed from the time the original planning documents were issued for public review, the Township must review the planning and design process and the current environmental setting to ensure the project and the proposed mitigative measures are still valid. In September 2002, the Township of Severn issued for public comment an addendum to the original environmental study report to meet this requirement.

Ministry Response:
MOE denied the application for investigation because it involved on-going Class EA and planning processes. MOE concluded that the allegations within the application related primarily to concerns with the planning process and the potential environmental impacts of the Westshore Water and Sewage Project. With the planning process on-going and the final decisions regarding the Class EA and final designs outstanding, MOE deemed an investigation at this time to be premature. In addition, MOE stated that given the preliminary nature of the proposed project and the regulatory scrutiny it must still undergo, the alleged contraventions were not serious enough to warrant an investigation, nor were they likely to cause environmental harm.

ECO Comment:
MOE was technically correct in denying the investigation request. The on-going nature of the Class EA and planning processes involving the proposed construction of the Westshore Water and Sewage Project did not warrant investigation at the time of the application. An investigation prior to final approvals and prior to construction works is premature. The ECO was unable to identify any evidence that contraventions have occurred. Should the project go ahead and adverse impacts be observed, the applicants have the right to apply for an investigation at that time. The applicants have been active in the ongoing Class EA process and have exercised their right to request the Minister of the Environment to issue a Part II Order or "bump-up" request requiring the Township of Severn to undertake an individual environmental assessment for the proposed water and sewage project. MOE informed the ECO in April 2003 that requests by several members of the public that the Township of Severn be ordered to prepare an individual environmental assessment for the project have been denied. The bump-up requests were denied subject to several conditions, the primary condition being that the Township prepare and implement a water quality monitoring program for Lake Couchiching, with all results posted for public viewing.

MOE's handling of this application was adequate and the ministry met all the technical requirements of the *EBR*. However, the ECO has ongoing concerns with the potential impact of sewage treatment plants on water quality throughout Ontario (see pages 35-49 of this year's annual report). This investigation request is one of several applications received this year related to sewage treatment plants. While not an issue directly raised in this application or addressed in MOE's response, the ECO is concerned with the public consultation weakness which currently exists in MOE's practice of not posting notices relating to Cs of A for sewage works subject to Class EAs on the Environmental Registry.

Review of Application I2002011:
Alleged *OWRA* and *Fisheries Act* Contraventions through Mercury Emissions by Ontario Power Generation
(Investigation Undertaken by MOE)

Background/Summary of Issues:
In August 2002, the Sierra Legal Defence Fund submitted an application for investigation requesting that MOE investigate whether OPG's emissions of mercury to the air totaling 629 kilograms in 1999, 549 kilograms in 2000, 581 kilograms in 2001, and an undetermined amount since that time, contravene the *Ontario Water Resources Act*, s. 30(1) or *the Fisheries Act*, ss.35(1) and 36(3). The applicants requested that the investigation examine the following questions: Is OPG emitting mercury? Is mercury a material that "may impair" under the *Ontario Water Resources Act* or a "deleterious" substance under the *Fisheries Act*? Is any mercury from OPG plants reaching Ontario waters or Canadian fisheries waters? And if answers to the preceding questions are yes, then which OPG directors, officers or other officials caused or permitted these discharges or deposits?

This application was sent to both MOE and MNR.

Ministry Response:
MOE agreed to carry out an investigation. MOE's investigation report was not sent to the applicants by May 29, 2003. MNR also received the same application, but returned the application to the ECO.

ECO Comment:
ECO will review this application in the 2003/2004 fiscal year.

Review of Application I2002013: Alleged *OWRA* and *Fisheries Act* Contraventions at Randle Reef, Hamilton Harbour (Investigation Denied by MOE)

Background/Summary of Issues:
Hamilton Harbour is the largest port on Lake Ontario in terms of cargo imported and exported annually, and supports the largest concentration of iron and steel industries of any location in Canada. The Harbour is a popular recreational area and has both a coldwater and a warmwater fishery. At the southern end of the Harbour lies a shallow reef called Randle Reef.

The applicants alleged that shipping activity is dispersing historically contaminated sediment from Randle Reef into the water column. As a result, aquatic life was being exposed to polycyclic aromatic hydrocarbons (PAHs) in contravention of the *Ontario Water Resources Act* and the federal *Fisheries Act*. The applicants stated that PAHs are "persistent, carcinogenic, bioaccumulative toxins."

The applicants noted that shipping activity is carried out under the supervision of the Hamilton Port Authority (HPA) and Stelco. The HPA owns the piers and the waterlot where the contaminated sediment is located and Stelco owns the adjacent pier. The applicants alleged that the HPA and Stelco were aware of the consequences of allowing shipping in the area due to their participation in groups studying and planning the clean up of Randle Reef. Under the *Canada Marine Act*, the HPA restricted traffic to part of the contaminated area. However, the applicants alleged that ships still passed through Randle Reef and in the vicinity of the restricted area.

The applicants provided detailed information regarding the effect of shipping activity on the Harbour. They noted that the Ministry of the Environment (MOE) believes that the "blobs" of floating coal tar result from shipping activity disturbing the Harbour bottom and are not new contamination. Environment Canada (EC) believes that sediment in Randle Reef is stirred up by high wave action and by tugboats due to the shallow depth of the water, resulting in Randle Reef being an active source of contamination for the Harbour. In 1996, the "Comprehensive Study Report for Randle Reef Sediment" prepared by EC estimated that tugboats cross the contaminated area 2,080 times each shipping season. A 1997 study concluded that every ship that passed through its study area redistributed 1-8 mm of contaminated sediment on each pass.

In support of their application, the applicants noted that Hamilton Harbour, and in particular Randle Reef, has been recognized as one of the most toxic locations on the Great Lakes and is reported to be the second most contaminated site in Canada for PAHs. As early as 1985, sediment at or near Randle Reef was identified as being contaminated with coal tar which is a by-product of steel manufacturing. Coal tar contains PAHs which have been targeted by various agreements, including the Great Lakes Water Quality Agreement (GLWQA), for virtual elimination.

The applicants also described a 1990 study in the Randle Reef area by EC which found that near-surface sediment had a total concentration of PAHs in excess of 200 parts per million. Studies in other water bodies have found that concentrations of PAHs lower than 200 parts per million can be linked to lesions and other abnormalities in fish. In 1994, EC reported that PAHs are "probably carcinogenic to humans" and may pose a danger to human life and health. Similarly, the U.S. EPA found 16 PAHs that are toxic to humans. If removed from the water, Randle Reef sediment is handled as hazardous waste since it contains all 16 of these PAHs. Contact with even small amounts of the sediment requires the use of protective gear. The Comprehensive Study Report identified other environmental impairments such as degradation of phytoplankton and zooplankton populations, and loss of fish and wildlife habitat.

In 1995, EC and other stakeholders formed the Randle Reef Remediation Steering Committee and agreed that remediation was required as soon as possible. The Committee did not agree on a method. In 1996, the Comprehensive Study Report described Randle Reef as "a spill in slow motion" and recommended early action. In April 2002, the Randle Reef Project Advisory Group, comprised of EC, the HPA, Stelco, the applicants and others, proposed that an area near Randle Reef be contained and in-filled. The applicants noted that almost one quarter of Hamilton Harbour has already been in-filled to create industrial sites. The proposed in-filling would result in a further loss of one per cent of the Harbour's surface area.

In addition to this application, the applicants filed an environmental petition with the federal Office of the Auditor General and the Commissioner of the Environment and Sustainable Development "asking for a response about the lack of action to clean up the contaminated Randle Reef area." The applicants took the view that Environment Canada has primary accountability for remediation of Hamilton Harbour. The applicants alleged that the dispersion of the contaminated sediment constitutes a continuing discharge contrary to the *Fisheries Act* and that the federal Minister of the Environment should undertake an investigation of the HPA and Stelco. The applicants petitioned the federal government to commit adequate funding to clean up Randle Reef and indicated that the clean up should proceed without delay.

In their federal application, the applicants also alleged that the "contain and cap" approach put forth by the Randle Reef Project Advisory Group in 2002 does not comply with GLWQA since it is not an ecosystem approach and since it is not an action "to restore and protect the ecosystem." They are concerned that this approach will prevent any possibility of restoring the area and that this approach would result in an additional loss of natural habitat.

The applicants noted that GLWQA was first signed in 1972 by Canada and the United States, and committed both countries to controlling the discharge of pollutants into the Great Lakes. The 1994 Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem (COA), which describes how Canada and Ontario will share responsibilities for GLWQA, identified PAHs as "requiring immediate action to eliminate their use, generation or release." The applicants noted that, although 13 years have passed since the discovery of the contaminated sediment and numerous discussions of treatment options have taken place, clean up of the contaminated sediment has not begun. For further information on COA and the GLWQA, see pages 73-76 in this year's annual report and pages 47-56 of the supplement.

Ministry Response:
MOE concluded that an investigation was not required on the basis that neither Stelco nor the HPA are currently discharging material that may impair the quality of water. MOE concluded that the application referred to discharges in the past. Since a Remedial Action Plan that addresses the allegation regarding shipping activity has been developed and remediation is expected to commence in the Fall 2003, MOE decided that no further action was warranted. MOE indicated that "any disturbance of the material by ships or even wave action would simply be the mechanism by which people may come into contact with the material."

In response to this decision, the applicants wrote to MOE and stated that they did not ask for an investigation into the historical discharge of coal tar and did not accept the explanation that shipping activity was simply "the mechanism by which people may come into contact with the material." The applicants noted that the statement that the Randle Reef Project Advisory Group reached consensus on the "contain and cap" option was inaccurate, and that EC's actions are "consistent with our evidence of an ongoing discharge." In their letter to MOE, the applicants requested that MOE clarify why "no further investigation is warranted based on the absence of a discharge, when you appear to confirm the fact of an ongoing discharge." MOE has since responded that it found no direct link between shipping activity and movement of sediments and that there was no reasonable prospect of a conviction. MOE noted that naturally occurring phenomena such as wind and waves can result in sediment disturbance.

ECO Comment:
The ECO agrees with MOE that an investigation is not required on the basis that remedial actions are progressing. The ECO has been advised by Environment Canada that contain and cap activities are scheduled to commence in 2004. MOE states that these actions will address the applicants' concerns. In the past, efforts under the 1994 Canada – Ontario Agreement Respecting the Great Lakes Basin Ecosystem (COA) to proceed with remediation of Areas of Concern such as Hamilton Harbour have been hampered by the lack of provincial funding and staffing and the lack of specific targets and deadlines, which the ECO has described in our 1999/2000 and 2002/2003 reports (see pages 73-76 of this year's annual report for additional information on the 2002 COA). Efforts to remediate Hamilton Harbour are complicated by the challenges of finding effective and "inexpensive" techniques to remediate contaminated sediment and by the number of stakeholders that are involved. The ECO is concerned that 13 years after the "second worst coal tar-contaminated site in Canada" was identified actual clean up has not commenced.

The applicants' conclusion that sediment disturbance resulting in the release of contaminants into the water column is a discharge is not a common interpretation under the *Ontario Water Resources Act (OWRA)*. Since MOE decided against conducting this investigation, it is unclear whether this interpretation would have been upheld by the courts.

This application also highlights our concerns regarding enforcement of the *Fisheries Act*. In our 2001/2002 annual report (pages 57-60), the ECO reported that, while MOE refuses to accept responsibility for enforcing s. 36(3) of the federal *Fisheries Act*, MOE is accountable for investigating chemical discharges such as PAHs into water and agreed to assist Environment Canada in these types of *Fisheries Act* cases. However, MOE has failed to provide a description to the ECO regarding any assistance that MOE has provided to Environment Canada in the last year regarding potential contraventions of the *Fisheries Act*. The ECO is concerned that this type of inter-agency cooperation did not happen in the past reporting period, and that chemical discharges such as PAHs into Randle Reef which potentially contravene the Act are continuing.

In a letter to the applicants, MOE incorrectly indicated that their application for investigation had been received on August 20, 2002, and a response would be provided by October 19, 2002. Since MOE did not receive the application until September 19, 2002, MOE actually had until November 19, 2002, to respond. Using the corrected dates, MOE was two months late providing the applicants with its decision not to proceed with the investigation. The ECO is concerned that MOE did not notify the applicants or the ECO of the delay, nor did MOE provide any explanation.

The decision not to investigate was made by the Director, West Central Region, MOE. While his position would ensure that he was knowledgeable regarding the case in question, it also means that he would have had previous involvement in prior decisions regarding Hamilton Harbour. Although MOE's Investigations and Enforcement Branch would be accountable for any investigation into the allegations, actions of the staff of the West Central Region would be investigated. The ECO recommended in 1997 that ministries assign such decisions to a branch or person with no previous involvement or a direct interest in the issue.

As noted in our decision review of the 2002 COA, the ECO is encouraged that steps are being taken by EC and MOE which should reinvigorate remediation of Areas of Concern such as Hamilton Harbour. However, this application highlights that much work remains to be done and that the issues are challenging.

Review of Application I2002014:
Alleged *OWRA* Contraventions of a Quarry Operation near Bracebridge
(Investigation Conducted by MOE, No Charges Laid)

Background/Summary of Issues:

The applicants alleged that Fowler Construction Company Limited ("Fowler"): pumped and took water without the required Permit to take Water (PTTW) under the *Ontario Water Resources Act* (*OWRA*), causing adverse effects on the local area's water table; discharged quarry water which included hydrocarbons and blasting residue into cold water creeks on which potable water wells are located contrary to the *OWRA*, causing adverse effects; and developed a new quarry without proper approval within 500 metres of a landfill currently in operation, causing significant adverse impacts.

Prior to receiving this application, MOE had posted a notice on the Registry on January 10, 2002 of a proposed PTTW for which Fowler had applied (#IA02E0026), for which there was not yet a decision notice when, in September 2002, the applicants submitted their application to the ECO. Additional details of the allegation are provided below.

Pumping and Taking Water

According to the applicants, Fowler developed this quarry between 1991 and September 2001. During the course of the quarry development, Fowler expanded into a lot zoned "rural" in the Municipality of the Town of Bracebridge and, by 2001, three-quarters of the quarry was located in this rural lot. The applicants reported that the east side of the quarry was next to two spring-fed creeks that ran through the rural lot on which a number of residential dug wells are located. The applicants alleged that the blasting in the quarry and the pumping to remove quarry water had a negative impact on the local water table and a detrimental effect on the quality of the potable water in the wells.

The applicants provided evidence that a number of the quarry's neighbours experienced problems with their wells that they alleged were due to the quarry's operation. One neighbour told the applicants her well ran dry following heavy blasts in the quarry a number of times, and the well water did not return for up to a week and potable water was not reliable. One of the applicants found that the springs on her property which flow into a pond dried up suddenly in 1995, and the water level in her well also dropped suddenly by eight feet to approximately two to three feet in depth. In the fall of 2001, according to the applicants, Fowler was ordered by the municipality to stop quarrying in September 2001 and ordered by MOE to stop pumping water in October and November 2001. The applicant whose pond and well had dried up found that, in the following spring of 2002, the well water level stayed at seven to eight feet and the pond and springs were replenished.

Discharge of Quarry Water

The applicants alleged that Fowler discharged its quarry water into the wetlands, creeks and spring to the east of the quarry. The applicants alleged that this discharge into the creek has contaminated neighbouring wells, compromising the quality of the potable water with a coliform problem.

The applicants stated that during the period of Fowler's quarry expansion ending September 2001, Fowler discharged quarry water into the wetlands to the east of the current quarry area. The applicants photographed rubber discharge pipes discharging into the spring and pond from which a northbound and southbound creek flow, and directly into the southbound creek. The applicants noted that Fowler had referred to these creeks as ephemeral creeks and indicated a preference for discharging there.

One of the applicants and several neighbours repeatedly received poor water quality results when the potable water in their wells was tested. Throughout 2000 and 2001, results showed coliform levels at a count of 80+, and after treating the water, it would only stay clean for approximately three weeks before showing high coliform counts again. The applicants stated that Fowler's hydrogeological water testing showed hydrocarbons and blasting residue in the quarry, and that a sample of quarry water indicated the presence of E-coli. The applicants alleged that the quarry water flowed past the local wells and contaminated the potable water regularly.

Location near Landfill

The Bracebridge/Rosewarne landfill site is located within 500 metres of the Fowler quarry. The landfill site is now managed by the District of Muskoka and monitored yearly due to past concerns about leachate, unrelated to the Fowler quarry. However, the applicants alleged that a recent study indicated a change of leachate flow to the east at least in part as a result of aggregate extraction and water taking related to the Fowler quarry. According to the applicants, this means that three more potable water wells may be impacted by leachate from the landfill.

In June 2002, Fowler proposed to dewater all of the quarry water west of the quarry, in connection with its attempts provide information to obtain a PTTW. The applicants noted concerns that this will cause contamination under the landfill to migrate with the quarry water through creeks to the Muskoka River and area lakes causing adverse environmental effects and threats to health.

Ministry Response:

In a letter dated December 16, 2002, MOE responded to this application for investigation. MOE staff investigated the dewatering complaint made by the applicants, but decided not to refer the matter to the Investigations and Enforcement Branch. MOE's response summarized the history of its interactions with the applicants and the proponent, some of which predated submission of the application.

When staff from MOE's Barrie District Office investigated the dewatering complaint in 2001, Fowler believed that no PTTW was required because less than 50,000 litres of surface water were pumped off site each day. MOE did not find conclusive proof that Fowler was contravening any requirements under the *OWRA*. MOE stated that the applicants were informed at that time that their water quality problems were due to near drought conditions causing an inadequate recharge of the shallow aquifer.

After receiving additional information from the applicants, staff from MOE's Southwestern Region Technical Support Section investigated further and determined that Fowler was capable of removing more than 50,000 litres per day. Fowler was instructed to obtain a PTTW and complied by submitting an application. MOE posted notice of this proposed PTTW on the Registry in January 2002. Fowler also agreed to stop dewatering until its PTTW application was approved. MOE decided not to grant the initial PTTW requested by Fowler and asked for additional information to allow a proper evaluation of the proposal, posting a decision notice to this effect in October 2002. MOE advised the applicants that another proposal notice would be posted on the Environmental Registry at least 30 days prior to this PTTW being issued, and that any comments received on the proposal must be considered by MOE. MOE provided the Registry web site address.

In an email to the ECO on January 20, 2003, one of the applicants expressed disappointment in MOE's response to the application. The applicant was troubled by the fact that MOE was only addressing the PTTW issue and had not responded to water quality issues related to the discharge of warm quarry water into the cold-water creek. The applicant also noted that no one had informed them that near-drought conditions had impacted water quality, as claimed in MOE's response. The applicant disputed this explanation, repeating some of the evidence submitted in the original application. Later in January 2003, the applicant wrote to MOE expanding on concerns that MOE had not responded to the alleged potable water problems in the area, and providing additional information about the sudden loss of water experienced in 1995. The applicant requested a more thorough explanation of MOE's response to the applicants' concerns as well as a meeting.

In February 2003, MOE provided the applicants with an addendum to its investigation decision summary. MOE stated that the proponent's consultant has indicated that it is necessary to dewater the quarry to conduct additional hydrogeological testing and provide the additional information requested by MOE. In order to do this, the proponent has applied for a temporary PTTW and this application is being reviewed by MOE. As well, the proponent proposes to discharge the quarry dewatering to an infiltration pond in a former aggregate resource extraction area west of the quarry. MOE advised that this would require an amended Certificate of Approval for the proponent's sewage works under s. 53 of the *OWRA*, and that the proponent's application for this amendment was under review by MOE. MOE had posted a notice of the proposed amendment to the proponent's sewage works approval on the Registry on November 25, 2002 (#IA02E1475), prior to sending its first decision summary concerning this investigation to the applicants. MOE concluded the addendum by noting that it was considering environmental impacts to local water supplies in reviewing and making decisions on these applications.

ECO Comment:

The ECO acknowledges that MOE did conduct an investigation in 2001 and is requiring the proponent to provide additional information in order to obtain a PTTW. MOE provided good service to the applicants insofar as it took a second look at their allegations concerning water taking and has requested additional information from the proponent prior to issuing a PTTW.

However, the ECO is concerned that MOE did not fully address the concerns of the applicants. While MOE had addressed the applicants' concerns about water taking by requiring that the proponent apply for a PTTW in late 2001, it did not respond initially to concerns about potable water problems. MOE only commented that the applicants had already been informed that their water quality problems were due to near drought conditions causing an inadequate recharge of the shallow aquifer supplying their water. The applicants denied that they received this explanation.

The applicants were forced to write a follow-up letter to request a response to the other issues in their application. However, even MOE's response to the applicants' second inquiry did not address their water quality concerns in any detail, stating only that it was considering environmental impacts to local water supplies in reviewing and making decisions on these applications. MOE should have addressed the applicants' concerns about water quality directly.

Also, MOE's responses did not specifically refer to the applicants' concerns about the discharge of quarry water into the wetlands east of the quarry that ended in September 2001. MOE did advise the applicants that Fowler was seeking an amended C of A to discharge quarry water into a former aggregate resource extraction area adjacent to the quarry that would act as an infiltration pond. The proposed infiltration pond is located west of the quarry. The applicants also expressed concerns about discharging the water to the west due to alleged existing contamination of groundwater in that area.

Although MOE informed the applicants that a proposal notice for a new PTTW application would be posted on the Registry, it missed the opportunity to indicate that a notice for a proposed amendment to the proponent's sewage works approval had been posted already.

MOE does have the power under s. 34(4) of the *OWRA* to prohibit the taking of water without a permit where it interferes with a public or private interest in any water. It might have been appropriate for MOE to invoke this power to order Fowler to reduce its consumption in response to local residents' low water problems.

In 2001, MNR introduced the Ontario Low Water Response Plan to ensure provincial coordination and preparation for local drought response. This initiative involves a number of ministries, including MOE, as well as local municipalities and conservation authorities. The plan establishes three levels of drought and low water that require different degrees of response. MOE and MNR should be vigilant to ensure that low water conditions receive an appropriate response. This may entail protection of residents' water rights even when there is potential for negative economic effects on corporations.

(See pages 77-78 of the supplement for a review of MOE's decision to issue a C of A for discharges to air to the Fowler facility.)

Review of Application I2002017: Alleged *EPA* and *OWRA* Contraventions by an Aluminum Smelter (Investigation Denied by MOE)

Background/Summary of Issues:
The applicants alleged that an abandoned aluminum smelter plant in the Keswick, Township of Georgina, York Region is discharging contaminated run-off into adjacent wetlands and that it is therefore in contravention of Section 14(1) of the *Environmental Protection Act* (*EPA*) and Section 30(1) of the *Ontario Water Resources Act (OWRA).* The wetlands into which the contaminants flow, feed the Maskinonge River and ultimately, Lake Simcoe, the source of drinking water for Keswick and several other municipalities. The applicants expressed concern about the contamination of local drinking water and potential adverse health and environmental effects. They urged the Ministry of the Environment (MOE) to lay charges if the investigation reveals that the facility has contravened the *EPA* and/or the *OWRA*.

The plant was owned and operated by Thane Developments Limited ("Thane") from 1974 until 1997, when the corporation went into receivership. The plant was a secondary aluminum smelter; it smelted aluminum skimmings, foundry sand and scrap aluminum to further extract aluminum. Salt slag, a waste containing sodium, chloride, nickel, copper, zinc and other substances remained after the process. A Certificate of Approval (C of A) allowing the facility to store the industrial waste inputs at the site during the time that it was in operation was granted to Thane by MOE in 1987.

Prior to this application, the plant's air emissions and the manner in which it stored waste was a source of concern to MOE and to the local community. In 1986, MOE issued Thane an order to control its air emissions and perform a number of other tasks. Thane took steps to satisfy the order by, among other things, installing a dust collection system. In August 1995, Thane was the subject of an application for investigation under the *EBR*. The applicants made 21 allegations of contraventions of Cs of A, control orders and the *EPA*. They claimed that the facility had inadequate controls over smoke and dust and expressed concern about the failure of Thane to reduce its stockpile of salt slag. MOE denied the investigation. The ECO reviewed the ministry's decision in our 1994-95 annual report.

In the 2002 application, the applicants emphasized that MOE itself has observed that stockpiles of aluminum waste, which remain on the site to date, are a source of off-site contamination. During an inspection of the property in November 1999, MOE determined that runoff from the stockpiled material at the Thane property "migrated into and contaminated the adjacent wetland area." The ministry subsequently observed a "high volume" of contaminants, originating from the stockpiled material leaving the property in February 2000, and a lesser volume leaving the property in April 2000.

The applicants provided information from several other reports which suggest that the smelter may be having an adverse impact on the local environment and human health through contamination of ground and surface water. In 2002, the Lake Simcoe Region Conservation Authority (LSRCA) performed an analysis of aluminum concentrations based on samples taken from the Maskinonge River, downstream from the smelter, between 1987 and 1995. LSRCA concluded: "It is apparent that aluminum is a problem in the Maskinonge River and the smelter site is contributing." The York Region's State of the Environment Report for 1998 reports that the aluminum concentration of treated surface water in Keswick exceeded the Ontario Drinking Water Objective in 1997. In 2000, MOE compiled a review of all historical surface water and groundwater data in the vicinity of the Thane property and concluded that there is "potential for impact with respect to sodium and chloride to the wetland adjacent to the property".

In November 2000, MOE issued a Provincial Officer Order under the *Environmental Protection Act*, Regulation 347 R.R.O. This order required Thane to take two key actions. First, it was to retain the services of a qualified consultant "to conduct an assessment of the Property for the purpose of determining the extent of contamination of the soil, surface water and groundwater as a result of the storage of the waste slag on the Property" by December 5, 2000, and to report on the assessment by June 30, 2001. The reporting date was subsequently extended to November 20, 2001. Second, Thane was ordered to remove all of the waste slag from the property by June 30, 2001. The cost for the removal of the slag was estimated at $2 million.

In late 2000, Thane appealed the order, citing financial hardship. Following a financial audit of the corporation, MOE amended the order to require that the corporation only undertake the assessment of contamination. Thane retained a consultant who completed the assessment in December 2001. The assessment examined slag, soil, shallow and deep ground water, as well as surface water on the Thane property. It did not examine impacts off-site. Upon review of the assessment, MOE concluded, as it had previously that: "There is a potential for sodium (Na) and chloride (Cl) movement in surface and groundwater off-site into the wetland northwest of the property". It also reported that trace metal movement is limited to the Thane property and there is "No evidence of adverse environmental impact off site." Moreover, MOE also appears to have re-evaluated the need to clean up in view of the likelihood that MOE would have to pay for this work. The Ministry determined that, "At the present time, there is no justification of an expenditure of provincial funds to clean-up the site."

In February 2002, the applicants filed a freedom of information (FOI) request with the MOE for documents dated January 1990 through March 31, 2002, relating to the contamination of the smelter site. At a public meeting in Georgina on March 27, 2002, MOE declared its decision not to clean up the site. Dissatisfied with the decision and the failure of the ministry to fulfill their FOI request, the applicants submitted the application for investigation under the *EBR* on November 22, 2002. The applicants asserted that a *detailed* investigation of *off-site* impacts is necessary in order to determine the seriousness of the impacts of the runoff. They called for an investigation of the specific content of the runoff, its biological effect and its impact on the surrounding wetlands, as well as on the Maskinonge River. As of April 4, 2003, MOE had failed to provide the applicants with most of the documents they had sought when they filed their February 2002 FOI request.

In the fall of 2002, the Township of Georgina entered into a limited liability agreement with the province, which allowed the township to enter the Thane property to remove rusting equipment, garbage and the building. The township does not, however, intend to remediate the site, remove the stockpiles of aluminum containing waste or undertake any work below the surface so as to ensure that any contaminated soil on the property is not disturbed.

Ministry Response:
On December 4, 2002, MOE acknowledged receipt of the application, indicating that it would provide notice to the applicants by January 28, 2003 if it decided not to conduct an investigation under the *EBR*. In a letter dated February 6, 2003, MOE informed the applicants that it had decided not undertake the requested investigation, because it had already begun an investigation of the impacts of the Thane smelter. The letter noted that the investigation which is already underway comprises at least two initiatives: (1) residential well water sampling in the vicinity of the Thane site in partnership with the York Region Health Department; and (2) a bio-assessment study in the wetlands located between the site and the Maskinonge River. The well water sampling was complete at the time of writing; the wetlands study was not. MOE informed the applicants that it expected to complete the investigation by September 30, 2003 and that they would be notified of the outcome by October 30, 2003.

MOE did not satisfy the technical requirements of the *EBR* in handling this application. It failed to meet the 60-day deadline established in Section 78(3) of the *EBR* for informing applicants of a decision to deny an investigation. Notice was sent on February 6, 2003, while the actual deadline was January 28, 2003.

ECO Comment:
The ECO does not take issue with MOE's decision to deny an investigation under the *EBR*. According to Section 77(3) of the *EBR*, a Minister is not required to duplicate an ongoing or completed investigation. Moreover, in its letter to the applicants which conveyed its decision, MOE upheld two important *EBR* requirements. First, the ministry established a timeline for the investigation - albeit one which is longer than the regular, unextended timeline under the *EBR*. (The *EBR* calls for a 120-day timeline for completion of the investigation, subject to extension. The investigation underway is to take over 210 days from the time that MOE wrote to the applicants.) Second, MOE committed to providing the applicants with notice of the outcome upon completion of the investigation underway. The ministry thereby provided a degree of certainty to the process.

While MOE explained its reasons for not undertaking the requested investigation in plain language, it did not provide a sufficiently detailed description of the assessments that it has undertaken/is undertaking. Given that a number and range of sampling and monitoring studies have already been conducted in the vicinity of the Thane smelter and given that applicants made specific requests, MOE should have provided a more detailed description of the parameters of the assessments it has and will be undertaking. It should have conveyed how the assessments underway will differ from those which have already been undertaken. It could have, for example, described the kinds of contaminants that will be studied, how many times and how frequently the sampling will be done and which flora and/or fauna in the area will be examined in the bioassessment study. Similarly, MOE could have provided more detail around the water sampling and perhaps, given that it had completed this work at the time of writing, a description of the findings. The ministry does make it clear that it will be examining the off-site impacts of the smelter site, a specific request of the applicants. The letter does not, however, address a number of other specific requests of the applicants, such as their request that the ministry determine the specific content of the runoff.

In the past, MOE has undertaken clean-ups of certain contaminated industrial sites after determining that the responsible companies were insolvent or unwilling to undertake the work directly. In some of these cases, the apportioning of clean-up costs was determined by the courts after the fact because the MOE has extensive powers to order that companies (or trustees in bankruptcy) pay the cost of doing work done by the ministry. It is not clear what criteria the ministry used in this case to determine that a provincially-funded clean-up was not justified, while an order requiring the company to clean up the site was justified.

While MOE's letter indicated that the applicants could contact its Central Region's York-Durham District office with any questions regarding its decision not to conduct the *EBR* investigation they had requested, the ministry has not made itself available to respond to inquiries that have been made. One of the applicants informed the ECO that she left messages with the ministry contact on several occasions, but that her calls were never returned. MOE should have made itself available, as it indicated it would, to address queries flowing from its decision.

The ECO will monitor MOE's further actions on this site once the biological assessment study of adjacent wetlands is completed. The ECO will also monitor to ensure that the applicants receive the report on the outcome of the investigation in late October 2003.

Review of Application I2002018: Alleged *OWRA* Contravention by Improper Well Abandonment (Investigation Denied by MOE)

Background/Summary of Issues:
In December 2002, the applicants forwarded an application for investigation to the ECO alleging that a neighbour abandoned his water well contrary to Regulation 903, R.R.O. 1990 under the *Ontario Water Resources Act*, and that this activity polluted the aquifer with organic matter such as manure. The applicants alleged that this resulted in coliform bacteria in their well.

This issue was first brought to the attention of MOE in July of 1999, when the applicants advised MOE that a neighbour had abandoned his well in 1979, and since then has been filling it with stones, wood, manure and other organic materials. The applicants alleged that the area is not graded to prevent surface water and contaminants such as manure, herbicides and pesticides from entering the well. In response, an Environmental Officer from MOE and a Public Health Inspector from the Oxford County Board of Health jointly inspected the neighbour's property. The Environmental Officer agreed with the applicants that the well had not been abandoned properly but did not pursue the matter "through regulatory channels" (e.g., launching a prosecution) since the two-year statute of limitations under s.94(1)(b) of the *Ontario Water Resources Act* had passed. The neighbour was advised that the fill materials should be removed and that the well should be refilled with clean clay mounded above the well to shed surface water. The neighbour was to advise the Public Health Inspector when the work would be done, so that the Inspector could be onsite.

The Environmental Officer also inspected the applicants' well which is located about 100 meters from the neighbour's well. The Officer observed that the applicants' dug well was over 80 years old and that it did not meet MOE's current well construction standards. The applicants were advised that their well was vulnerable to surface contamination due to its age and condition, and recommended several construction upgrades and the use of disinfection to protect their water from contamination. The Board of Health advised the applicants to continue to use an ultra-violet treatment system since the sample results provided by the applicants showed the presence of coliform bacteria on an ongoing basis.

In November of 1999, the Public Health Inspector contacted the neighbour and was advised that the well had been refilled according to the suggestions made earlier but without the Inspector being onsite. The Inspector subsequently visited the site and observed that a slightly domed cap of topsoil was present over the well location.

Unsatisfied with MOE's decision not to issue an order to the neighbour to cap his abandoned well, the applicants filed a complaint in April 2000 with the Ontario Ombudsman's office regarding MOE's handling of the case. After reviewing the circumstances of the case, the Ontario Ombudsman's office advised the applicants that no further investigation was warranted.

In May of 2002, the applicants' well tested positive for total coliforms and *E. coli*. Further testing in July of 2002, indicated that the applicants' septic system was not the source of the contaminants. The applicants continued to be concerned that their well was being contaminated by the neighbour's well.

Ministry Response:
MOE concluded that an investigation was not required based on a review of the file and on the conclusions of the Ontario Ombudsman's office. MOE agreed that the neighbour improperly filled his water well during the period of 1979 to 1999 contrary to Regulation 903. Since the problem was not identified until after the two-year statute of limitations under the *Ontario Water Resources Act* had expired, MOE did not lay charges. MOE reiterated that the Public Health Inspector had viewed the well confirming that it appeared to have been refilled according to instructions.

MOE also concluded that there was no evidence to support the allegation that activities at the neighbour's well caused the coliform contamination of the applicants' well.

ECO Comment:
Although the ECO believes that the decision by MOE to deny the investigation was reasonable, MOE should have verified that the neighbour's well had been properly decommissioned after the neighbour had been instructed to do so. Since MOE had investigated the original complaint and had verified that the neighbour's well had been improperly decommissioned, there was no

requirement to repeat this investigation. However, since the neighbour did not ensure that the Public Health Inspector was on site during the refilling activity as requested, it would have been prudent to have conducted a formal follow up inspection to verify that the work had been completed properly. In addition, the ECO believes that citing s.94(1)(b) of the *Ontario Water Resources Act* as the reason for not taking regulatory action was incorrect since MOE inspected the well the same month that it received the initial complaint. MOE also was not limited to taking prosecutorial action – an order to properly decommission the well could have been issued and is not subject to the limitations of s.94.

The decision was made by the Director, Southwestern Region, MOE. The Environmental Officer who looked into the matter in 1999 reported to this director. It would have been preferable to assign this application to another MOE branch.

This application highlights some of the dangers associated with wells that have been improperly abandoned. There are as many as 100,000 abandoned wells located not just in rural areas but also in our cities that are no longer being maintained. These wells provide a path for contaminants such as *E. coli* and pesticides to enter the groundwater and potentially to enter our drinking water supplies. In the aftermath of the Walkerton tragedy, there has been a renewed focus on protecting our drinking water at the source. Amendments to Regulation 903 under the *OWRA*, the *Nutrient Management Act* and the recommendations of the Advisory Committee on Watershed-based Source Protection Planning are all steps forward; but most of the work of locating and properly plugging and sealing abandoned wells in Ontario remains to be done.

Review of Application I2002019:
Alleged *EPA* Contravention by Farmers Burning Tobacco Leaves
(Investigation Undertaken by MOE)

Background/Summary of Issues:

The applicants alleged that the neighbours are burning non-useable tobacco leaves each evening from August until the end of September in contravention of s.14 of the *Environmental Protection Act*. The applicants alleged that the smoke engulfs their horse barns, fields and house resulting in breathing difficulties, headaches and sometimes nausea. The applicants were concerned that even when poor air quality warnings were issued and the public was asked to avoid the use of lawnmowers and cars, the neighbours continued to burn leaves.

Ministry Response:

The MOE decided to investigate, and advised the applicants it would conduct its investigation by May 9, 2003 or provide a written estimate of the time required if additional time was needed. In June 2003, MOE advised the applicants of its findings.

ECO Comment:

ECO will review the handling of this application for investigation in the 2003/2004 reporting period.

Review of Application I2002020:
Alleged *EPA* and *OWRA* Contraventions by Sewage Flowing into Jock River
(Investigation Undertaken by MOE)

Background/Summary of Issues:
The applicants allege that the Corporation of the City of Ottawa has allowed raw sewage to discharge on a continuing basis into the natural environment, and that this is causing or likely to cause an adverse effect. The applicants allege that the Munster sewage lagoons in Goulbourn Township are experiencing ongoing sewage breakouts, as well as periodic overflow events into adjoining ditches, and that the ditches flow directly into the Jock River. Among their evidence, the applicants included a copy of an MOE Compliance Inspection Report from March 1994, which noted that sewage from the lagoons was being discharged to adjacent ditches which connect to the Jock River.

Ministry Response:
MOE decided in March 2003 to carry out an investigation.

ECO Comment:
ECO will review this application in the 2003/2004 fiscal year.

Review of Application I2002021:
Alleged *EPA* and *OWRA* Contraventions by Volatile Organic Compound Discharges in East York, Toronto
(Investigation Denied by MOE)

Background/Summary of Issues:
The applicants allege that 17 properties up-gradient to property owned by one of the applicants in East York, Toronto are discharging contaminants into the soil and groundwater. They allege that the City of Toronto is permitting this discharge of contaminants to occur. The applicants also allege that the City of Toronto, as the legal successor to the former City of East York, caused or permitted the dumping of waste, from which contaminants are also discharging, in the area. The applicants assert that the City of Toronto and numerous persons/corporations which are/were current or historic owners and tenants of properties hydrogeologically up-gradient from the applicant's property are therefore in contravention of section 14(1) of the *Environmental Protection Act (EPA)* and section 30(1) of the *Ontario Water Resources Act (OWRA)*.

The applicants contend that the contaminated groundwater, which flows under the applicant's property, discharges into the Don River and ultimately, Lake Ontario. They express concern about the potential impacts on human health, organisms and the environment of the contaminants – particularly volatile organic compounds (VOCs), such as vinyl chlorides and other carcinogens – which are released. The applicants are also concerned that the contaminant discharges seriously impact the ability of property owners, down-gradient from the sources of pollution, to sell and refinance their property, as pollution significantly degrades property value. The applicants claim that the Ministry of the Environment (MOE) has substantial information in its files regarding many of these properties and that the information it has is sufficient grounds, not only for MOE to conduct an investigation, but to prosecute for breaches of the *EPA* and *OWRA*.

On February 13, 2003, a lawyer for the applicants issued a request to the Director of MOE, Central Region for remedial and abatement orders to stop and remediate VOC discharges from the properties of concern. This application for investigation was filed with the ECO on March 7, 2003.

Ministry Response:
In a letter dated May 12, 2003, MOE denied the investigation.

ECO Comment:
The ECO will review MOE's handling of this application in the 2003/2004 fiscal year.

MINISTRY OF NATURAL RESOURCES

Review of Application I2001006:
Alleged *ARA*, *EPA* and *OWRA* Contraventions by a Gravel Pit Operator
(Investigation Undertaken by MNR)

Background/Summary of Issues:
In February 2002, the ECO received an application for investigation in which the applicants alleged contraventions by a medium-sized aggregate operator of the *Aggregate Resources Act (ARA),* Section 14 of the *Environmental Protection Act (EPA),* and Section 34 of the *Ontario Water Resources Act (OWRA).* The applicants alleged that the operation of a gravel pit located near their residence in the Township of Oro-Medonte, had been causing excessive noise and dust and that the stockpiling of extracted materials above the surface had been occurring, in violation of the site plan and aggregate licence. The applicants alleged that for three years, they had been urging the Ministry of Natural Resources (MNR) and the company to improve site operations that were adversely affecting their ability to enjoy their homes and property. The applicants' efforts had met with no success.

Specifically, the applicants alleged that the operator:

- Stockpiles aggregate at ground level in contravention of the site plan, which states that the storage area would move to the pit floor once space was available.
- Fails to mitigate noise from the operation of heavy machinery including the conveyor belts and a diesel-powered generator and water pump.
- Operates heavy machinery outside the hours of operation designated in the site plan and the machinery is not located behind protective berms to decrease noise disturbance.
- Fails to control dust arising from the site generally, and specifically has been remiss in fulfilling site plan obligations relating to dust mitigation, i.e. cleaning the haul road.

The applicants indicated that they had asked the MNR district pit inspector several times over the years when the stockpiles would be moved to the pit floor. The only response they received was that the company was "having problems and needed a bit more time." The applicants also alleged that what the company reported in its 2001 Licensee Compliance Assessment Report conflicts with what the applicants observed on-site. In addition, the applicants noted that the operator failed to establish a liaison committee of local residents and local pit operators (a condition of the site plan, originally arising from a 1992 Ontario Municipal Board Hearing.)

The applicants felt strongly that the pit operator had routinely ignored their complaints, had contravened the site licence, and had exceeded what is a reasonable level of disturbance.

Ministry Response:
MNR undertook the investigation, and assigned it to an investigation specialist from its Evaluation and Special Services Unit of the Enforcement Branch. On October 7, 2002, MNR notified the applicants of the results. Based on a review of the *ARA* files for the pit licence, a site inspection and interviews with the aggregate operator, MNR district personnel and the applicants, MNR concluded that the operator had not contravened the *ARA*. The remainder of the report consisted of a comprehensive response to each of the allegations made by the applicants. For example, MNR demonstrated that there was no site condition for a deadline by which the operator must have cleared enough space to move the stockpiles of aggregate to the pit floor. In general, MNR found the operator to be in compliance with all the conditions of its site plan and licence and the ministry was satisfied that the company had taken the necessary actions to mitigate excessive noise caused by the 24 hour water pumping activity on the site.

MNR's response was thorough, clear and completed within a reasonable timeframe. The clarity of MNR's response cleared up several misconceptions the applicants had with regard to the daily operation of the pit. These misconceptions existed largely due to the lack of communication between the parties involved. The ministry responded to all of the valid concerns raised by the applicants except that it did not address the conduct of MNR district staff in dealing with the applicants' complaints prior to the submission of their application for investigation under the *EBR*. In addition, MNR's investigation seemed to apply a convincing degree of pressure on the company to take action to mitigate the applicants' concerns, following three years of inaction on the part of the company and MNR's district pit inspector.

MNR did not, however, advise the applicants within its response of MOE's investigation of possible *EPA* and *OWRA* contraventions. This investigation reviewed the conditions of the company's Permit to Take Water (PTTW) issued under the *OWRA* and resulted in an amendment to reflect the actual water taking activities at the site. Despite the amendment being approved by MOE in August 2002 to rectify the incorrect number of hours of water taking per day, that ministry apparently did not inform MNR of its actions. If this had occurred MNR could have referred the applicants to the Decision notices posted on the Environmental Registry for the PTTW (IA8E0093) and its renewal (IA01E0610). In addition, MOE's referral of its investigation findings to that ministry's Investigations and Enforcement Branch may be the only further opportunity the applicants have available to pursue the issues raised in the two related applications.

ECO Comment:
The ECO commends MNR for the thoroughness and clarity of its investigation, and agrees with its conclusion that no contravention of the *ARA* has occurred. Despite the proper handling of this *EBR* investigation by MNR, the ECO is concerned with the poor handling by MNR District staff of the applicants' initial concerns about the pit operation. In particular, the ECO is concerned with the 3-year period in which no action was taken either by the company or by MNR to investigate the applicants' concerns and/or act to rectify any problems. The *EBR* action taken by the applicants seems to be the only reason that several problems and discrepancies were uncovered, and subsequently addressed.

MNR's investigation failed to respond to the handling of the applicants' initial complaints and the role played by the district staff. Had MNR District staff adequately communicated information regarding the state of operations at the site, the need for *EBR* action may have been avoided. These applicants were not asking that the pit operator be put out of business. Rather they were reasonably seeking to protect their rights to enjoy their own property and homes without undue noise and disturbance.

Failure of MNR district staff to take the time to fully inform and explain to the concerned residents the terms of the licence and site plan appears to have elevated these reasonable concerns into a 'conflict' situation. The response of MNR district staff that the company was "having problems" was not only uninformative, but may have wrongly suggested that violations were occurring on the site. The *EBR* investigation, however, concluded that the pit operation had met the conditions of its license and recently exceeded its noise mitigation obligations.

While the company may indeed have been operating within the terms of its licence and site plan, it did not keep the lines of communication open. MNR did not deem the applicants' early complaints relating to noise and dust to be serious enough to warrant contacting MOE. However, with respect to noise and dust, the terms and conditions in the site plan indicated that the operator was obliged to 'respond' to objections raised by residents or MOE. The company could have avoided the lengthy waiting game of the MNR investigation if at the first sign of objection regarding noise and dust, it invited the applicants onto the site to view the operations, explained the process to them and demonstrated that it was operating in compliance with all the conditions of its licence. The noise disturbance was eventually resolved when the company removed the diesel-powered generator, which was operating the water pump, and replaced it with an electric power supply. The ECO questions whether this 'quick fix' could not have occurred years earlier when the first noise complaints were raised.

The outcome of this application for investigation suggests that the protocol to address environmental complaints regarding pit and quarry operations in the province which exists between MNR and MOE, was not followed. In particular MNR should have contacted MOE District staff for technical support and action when it was determined that the pit licence conditions or site plan notes cross-referenced the *EPA* and *OWRA*. MOE should have been contacted in order to fully assess whether any non-*ARA* related violations had occurred. If this had been followed, an error on the PTTW falsely indicating the maximum hours of taking per day to be 12 (see I2001007) would have been detected earlier and the noise disturbance would have been addressed much sooner.

MNR stated that the ministry "recognizes the importance of continued dialogue between aggregate companies, residents, municipal and provincial governments and the Ministry in order to resolve concerns regarding aggregate operations." The ECO echoes the call for continued dialogue. The ECO also recommends that MNR take action to ensure that ministry staff (especially those in front-line contact with aggregate operators and the public affected by this industry) are trained to provide informative, accurate and detailed responses to questions and concerns, for the mutual benefit of all involved. Stronger, unambiguous language used in the terms of condition for licences and site plans is also needed in order to facilitate monitoring and enforcement with the real risk of prosecution unmistakable to those in the industry operating at the level of borderline compliance. In July 2003, MNR informed the ECO that MNR aggregate staff have received additional training with respect to their role and responsibilities under the MNR/MOE environmental complaint protocol to minimize the potential for confusion in the future and to improve customer service. MNR and MOE continue to work together to improve the protocol where problems have been identified.

Review of Application I2001008:
Alleged Contraventions related to Unauthorized Shoreline Filling
(Investigation Denied by MNR)

Background/Summary of Issues:
In February 2002 the ECO received and forwarded to MNR an *EBR* application for investigation regarding alleged violations of the *Conservation Authorities Act (CAA),* the *Public Lands Act (PLA),* s.27, O.Reg. 453/96, the *Lakes and Rivers Improvement Act (LRIA),* subsections 16(1), 36(1) and 20.1(1), and the federal *Fisheries Act*, s. 36(3). The applicants alleged the unauthorized construction of a retaining wall and the back filling and seeding of shore lands by a neighbour adjacent to their family cottage, located on Georgian Bay in the Town of the Blue Mountains.

The applicants alleged that their neighbour had gradually built-up the shoreline fronting the property on which he lives (but is not the titled landowner), by depositing large rocks on the shoreline, placing fill and seeding the soil. This, the applicants contended, had dramatically altered the natural shoreline in terms of grade, slope and cover. The applicants alleged that no MNR works permit has been issued for these alterations, and that the side effects of these shoreline changes have been the deterioration of their own well's water quality and the promotion of algae blooms on their shoreline property, due to poor lake water circulation.

In 2001 the applicants applied for a MNR works permit to open up a rock groyne structure which extends into the waters of Georgian Bay, separating the two shoreline properties and shared with their neighbour. This work was proposed in order to restore some natural circulation of water in the beachfront of the applicants' cottage in the hopes of reducing the level of bacteria produced by the algae blooms. The rotting of the algae has caused a severe odour problem as well as a health hazard for the family pet, and has curbed the ability to swim in the waters fronting the applicants' cottage. The applicants alleged that their neighbour intentionally hindered the work permit process they initiated by refusing to comment and or consent to the proposed works to open the groyne and restore circulation.

The applicants alleged that this shared rock groyne structure has also been illegally enlarged by their neighbour through the annual adding of more rocks and assorted construction materials to build up a makeshift break-wall, on what the applicants contend is legislated "shore lands" and therefore under the authorization of MNR.

The alleged unregulated activities of the applicants' neighbour, including backfilling, seeding, changing grade, and adding rocks, as well as other allegations such as using chemicals and dumping fireplace ash had all, according to the applicants, contributed to the deterioration of the condition of the lake in the vicinity of their cottage. More specifically, the applicants alleged that the algae growth and sedimentation build up had resulted in the destruction of fish habitat and had adversely impacted the natural shoreline's ecological integrity.

Ministry Response:
MNR denied the application for investigation. In response to the allegation of placement of fill and interference with the existing channel of a watercourse under the *CAA,* MNR stated that this was a matter for consideration and investigation by the relevant conservation authority, which was already aware of the allegations.

In response to the applicants' allegations that s. 16 of the *LRIA* was contravened through the unauthorized addition of material to the rock groyne to increase its height, thereby altering a dam, MNR stated that no approval under s. 16 is required for this work. MNR stated that this is the case because such activity does not fall under the circumstances prescribed by O. Reg. 454/96.

MNR indicated that the alleged contravention of s.36 of the *LRIA* (which prohibits the throwing of things into lakes, rivers, shores or banks under circumstances that conflict with the purpose of the *LRIA),* was also not a matter that they would investigate because it would be subject to the ongoing Department of Fisheries and Oceans (DFO) investigation under the federal *Fisheries Act.* In addition, this alleged activity, MNR reported, would also be considered by MOE during their review of alleged contraventions of the *OWRA.* MNR also responded to the applicants' allegation that their neighbour had interfered with or hindered an inspector or engineer's ability to carry out their duties under the act, in contravention of s. 20.1 of the *LRIA*. MNR stated that it had no records to indicate that this ever occurred on any site inspections.

In response to the allegation that unauthorized filling in contravention of s. 27 and O.Reg. 453/96 of the *PLA* had occurred, MNR stated that it had seen no evidence to indicate that the work undertaken by the applicants' neighbour, "presently approximately 15 feet inland from the water of Georgian Bay" was conducted on public land or on shore lands within the meaning of the Act. MNR indicated that it had confirmed that the original Crown grant relevant to the activities of the applicants' neighbour was a "water's edge grant" patented in 1843. MNR implied, but did not explain, that this status legally exempts these lands from the current definition of "shore lands" under the *PLA*.

ECO Comment:
MNR's decision not to conduct an investigation was technically correct but not well explained. The allegations were also being addressed by ongoing investigations or inspections by the Conservation Authority, MOE, and DFO, and therefore MNR was right to avoid duplication. However, MNR failed to adequately explain what it was avoiding duplicating, and often referred to technical or legal details without sufficient description of what the relevance was to the outcome of this application for investigation. For example, MNR failed to say what role the Conservation Authority (CA) should play, and what if any, ongoing investigations by the CA are or were underway. As well, MNR referred to s. 16 of the *LRIA* and O.Reg. 454/96 but did not elaborate on how or why the activities the applicants alleged have occurred do not fall within the circumstances prescribed by the regulations.

MNR determined from the evidence presented within the formal application that the lands on which the applicants' neighbour was adding rocks and backfilling were not shore lands under the meaning of the *PLA*. MNR implied, but did not clearly explain, that the neighbour's activities do not fall under the definition of "shore lands" as defined by the Act because the property is subject to the "water's edge grant" status. It is the ECO's understanding that this form of early crown grant on title for that property (in this case patented in 1843) means that the subject shore lands are not owned by the province or the federal government. Furthermore, the water's edge grant gives the deed-holder ownership of all lands from the edge of the waterline, as determined by the level of the water. If as is suspected, the applicants' neighbour's deed indicates ownership from the low water mark, then the land build-up activities the applicants alleged occurred were legal, largely due to the low water levels of Georgian Bay in recent years. MNR failed to clearly explain the relevance of this land title and how it affects that ministry's authority to regulate shoreline activities in such situations.

MNR was not clear in its explanation of what the legal requirements were for shoreline alterations by either the alleged contravenor or the applicants in their own attempt to alleviate the poor water quality they were experiencing in front of their cottage. The responses the applicants have received from different MNR representatives throughout their quest for clarification have led to further confusion as to why the works they proposed for their own property were subject to what appeared to be substantial regulatory scrutiny, while their neighbour appeared to be able to continue to reclaim land from the waters of Georgian Bay. This problem of inconsistent or poor customer service by MNR district staff was also a theme in I2001006, see pages 290-293 of the supplement.

The applicants were disappointed that evidence collected after the submission of their application was not considered by the ministry in its deliberation, and questioned the *EBR*'s lack of a legal mechanism to enable applicants to petition for a file to be re-opened should new evidence come to light. The ECO informed the applicants that the purpose of the application for investigation is to report alleged contraventions that have *already occurred*, and the evidence submitted along with the application is meant to support these allegations. If on the basis of the evidence presented in the original application a contravention existed, then a repeated contravention should make no difference to the outcome of the investigation. The admission of new evidence once an application has been considered complete is discouraged because it in essence re-sets the

EBR timelines. As well, legally each additional piece of evidence should be accompanied by a sworn affidavit. The *EBR* anticipates that when an application for investigation is submitted with a sworn affidavit, that applicant is swearing it against the evidence presented within the application. Any evidence provided outside of this application, is therefore not legally binding to the application submitted. For this reason the applicants were made aware of their right to submit a new application for investigation based on the new evidence compiled.

The ECO has directed the applicants to the Federal Commissioner of Environment and Sustainability and the Ontario Ombudsman's Office if they would like to pursue further action, and has advised them that if their neighbour is illegally altering his property to their detriment by raising the adjacent property relative to theirs, then this becomes a municipal issue and outside the legal authority of the *EBR*.

Review of Application I2002010:
Alleged Contraventions related to the Township of Severn's Proposed Westshore Water and Sewage Project
(Investigation Denied by MNR)

Background/Summary of Issues:
In August 2002 the ECO received and forwarded to MNR an application for investigation from members of the Westshore Citizens' Coalition alleging that the Township of Severn's proposal to construct a sewage treatment plant and a communal water supply system on the west shoreline of Lake Couchiching contravened several statutes. The applicants expressed concern with the planning process under the Class Environmental Assessment process and the potential impacts this project would have on the natural environment. In particular the application alleged that the proposed Westshore Water and Sewage Project contravened the following:

- *Endangered Species Act*
- *Fisheries Act, s. 36*
- *Fish and Wildlife Conservation Act*
- *Lakes and Rivers Improvement Act*

The applicants contend that the Township of Severn's proposal contravened the above statutes and that these contraventions are resulting in, or will result in, the following:

- Degradation of Lake Couchiching's water quality based on the allegation that a provincially significant wetland and wetland system will be adversely impacted by the project's influence and that proposed high density development is placing two allegedly endangered frog species at risk.
- Destruction of fish habitat caused by the proposed construction of the project, specifically the location and construction of the intake and outlet pipes on the lakebed.
- Disturbance to the presence of an allegedly distinct and undescribed species of (mayfly) nymph.

The Westshore Sewage and Water Project was planned under the *Municipal Engineers Association Municipal Class Environmental Assessment for Municipal Water and Wastewater*

Projects in 1996. Following a public consultation process, the Class EA process was completed in 1997 and the project was approved under the *EAA*. After the Class EA was completed, the Ministry of Environment (MOE) issued two Certificates of Approval (C of A) for the communal water supply system and for the sewage treatment facility. Funding delays meant that the Township was unable to begin construction on the project until quite recently. The current status of the project is that no construction can proceed until the final plans are submitted and approved by the MOE's Director responsible for sewage and waterworks approvals. Under the conditions of the original Class EA, if more than five years have passed from the time the original planning documents were issued for public review, the Township must review the planning and design process and the current environmental setting to ensure the project and the proposed mitigative measures are still valid. In September 2002, the Township of Severn issued for public comment an addendum to the original environmental study report to meet with this requirement. See also I2002009.

Ministry Response:
MNR denied this application because of the on-going nature of the planning and Class EA process for the project. Beyond this reason, MNR believed an investigation to be premature given that MOE would be examining the project proposal under the Class EA and under the C of A process. MNR's position was that the allegations related solely to process-oriented activities. With no physical disruption or construction having yet occurred, no adverse impacts on the natural environment have existed; therefore MNR stated that an investigation is unwarranted. MNR concluded that an investigation was not necessary because the alleged contraventions were as yet not substantiated, not serious enough, and not likely to cause harm to the environment.

In addition to the general rationale for denying the application, MNR included in its response a detailed explanation for each of the alleged contraventions. MNR determined that the alleged slating of wetland areas for high-density development was not true. In fact the ministry clarified that no plans exist for such development and that the current zoning does not provide for high-density development. In addition to this, MNR reiterated that the alleged degradation of water quality caused by the disruption of wetland functions was unsubstantiated because no construction has begun, and no pipes have yet been put in place. In reference to the disturbance of the two frog species, MNR stated that neither of the species identified are listed as endangered.

In response to the allegation of fish habitat disruption, MNR stated that the proper approvals and permits required prior to the insertion of intake and outlet pipes on the lakebed have yet to be acquired. No construction can begin without these approvals; nor can construction begin without the Township meeting the requirements of sections 35 and 36 of the *Fisheries Act.* As well, because no construction has taken place and planning reviews are on-going the claim that fish and wildlife habitat have not been protected is unwarranted, according to MNR.

MNR also stated that it believed the applicants had misinterpreted the Lake Couchiching Environmental Quality Report (1997) to claim the presence of a yet to be described species of mayfly. MNR explained that contrary to this claim, the nymph in question is actually known in North America, and is not listed as vulnerable, threatened or endangered in Ontario.

ECO Comment:
MNR was technically correct in denying the investigation request. The on-going nature of the Class EA and planning processes involving the proposed construction of the Westshore Water and Sewage Project do not warrant investigation at this time. An investigation prior to final approvals and prior to construction works is premature. The ECO was unable to identify any evidence that contraventions have occurred. Should the project go ahead and adverse impacts be observed, the applicants have the right to apply for an investigation at that time.

MNR's handling of this application was adequate and the ministry met all the technical requirements of the *EBR*. MNR provided a very clear and detailed rationale for denying the investigation. However, the ECO has ongoing concerns with the potential impact of sewage treatment plants on water quality throughout Ontario (for further information see pages 35-49 of this year's annual report). This investigation request is one of several applications received this year related to sewage treatment plants.

The ECO is also concerned with the Province's overall handling of the potential loss of endangered species (see pages 134-138 in the main report).

MOE informed the ECO in April 2003 that the requests for an individual environmental assessment had been conditionally denied.

Review of Application I2002012:
Alleged *Fisheries Act* Contraventions by Ontario Power Generation
(Investigation Returned by MNR)

Background/Summary of Issues:
In August 2002, The Sierra Legal Defence Fund (SLDF) submitted an application requesting that MOE investigate whether mercury emissions to the air by Ontario Power Generation Inc. (OPG) totaling 629 kilograms in 1999, 549 kilograms in 2000, 581 kilograms in 2001, and an undetermined amount since that time, contravene the *Ontario Water Resources Act*, s. 30(1) or *the Fisheries Act*, ss.35(1) and 36(3). SLDF also sent out a news release to publicize its application. The applicants requested that the investigation examine the following questions: Is OPG emitting mercury? Is mercury a material that "may impair" under the *Ontario Water Resources Act* or a "deleterious" substance under the *Fisheries Act*? Is any mercury from OPG plants reaching Ontario waters or Canadian fisheries waters? And if answers to the preceding questions are yes, then which OPG directors, officers or other officials caused or permitted these discharges or deposits?

The ECO forwarded this application to both MOE and MNR.

Ministry Response:
MNR returned this application to the ECO, explaining that MNR is not responsible for enforcement of s. 36 of the *Fisheries Act* with respect to contraventions related to *chemical*

pollution. While MNR does continue to enforce s. 36 of the *Fisheries Act* with regard to contraventions relating to silt and sediment being deposited in waters frequented by fish, this application contained no allegations related to silt or sediment. MNR offered, if requested, to provide assistance to MOE in considering this application for investigation.

With regard to s. 35 of the *Fisheries Act*, MNR noted that the federal Department of Fisheries and Oceans is the lead agency for enforcement of that section.

ECO Comment:
The ECO has previously described how Ontario ministries have gradually eroded the power and effectiveness of the *Fisheries Act* in this province (see the ECO's 2001/2002 AR, pages 57-63). The *Fisheries Act* is widely regarded as one of the most powerful environmental laws in Canada, and the *EBR* was designed to make key sections of the *Fisheries Act* subject to applications for investigation. Unfortunately, the ability of Ontario residents to use these legal tools has been seriously undermined in recent years.

The first weakening occurred on September 18, 1997, when MNR announced that the ministry was withdrawing from the administration and enforcement of the s.35 provisions of the *Fisheries Act*, which require authorization for anything that harms, alters, disrupts or destroys fish habitat. The ECO's 1997 Annual Report (page 27) reviewed this decision. The decision meant that Ontario residents could no longer use the *EBR* to request that MNR investigate alleged contraventions of s. 35 (1) of the *Fisheries Act*.

Although MNR remains responsible for enforcing s. 36 of the *Fisheries Act*, there is now another restriction. In November 2000, MNR informed the ECO that the ministry was no longer responsible for enforcement of s.36 the *Fisheries Act* when alleged pollutants were chemical in nature. The rationale was that MNR did not have the staff, equipment or expertise to investigate chemical discharges and determine whether they constituted violations of the *Fisheries Act*.

At the time, MNR referred the ECO to a compliance protocol, which indicated that MOE was the lead enforcing agency for s. 36(3) where the deleterious substance was a chemical, (except in the case of federal lands or federally regulated industries). However in July 2001, MOE advised the ECO that the compliance protocol was incorrect, and that MOE had never agreed to enforce s.36(3) in relation to chemical discharges. Unfortunately, it appears that neither MNR nor MOE are enforcing s. 36(3) of the *Fisheries Act* when alleged pollutants are chemical in nature. This effectively strips Ontario residents of an important investigation tool under the *EBR* in relation to chemical discharges to water, and also means that Ontario residents cannot launch lawsuits for harm to public resources where the alleged harm involves chemical disharges that may contravene s.36(3) of the *Fisheries Act*.

As described on pages 176-177 of this year's annual report, the ministries have been working with federal agencies to revise the compliance protocol on enforcement of s. 36(3) of the *Fisheries Act*. If the proposed changes are environmentally significant, the ECO urges MNR and MOE to ensure that a notice is posted on the Registry before the final revisions are approved, and that the revised protocol is published and distributed to the public.

This application was also forwarded to MOE, (see I2002011 above), and MOE has agreed to investigate. The ECO will review MOE's handling of this application in the 2003/2004 reporting period.

Review of Application I2002015:
Alleged *LRIA* Contraventions at Rocky Island Lake
(Investigation Denied by MNR)

Background/Summary of Issues:
In October 2002, two *EBR* applications were submitted by local residents who had noted, and photographed the essentially drained condition of Rocky Island Lake that summer. One of these applications was for an investigation of alleged contraventions of the *Lakes and Rivers Improvement Act (LRIA)*; the other was an application for review of the relevant sections of *LRIA* as it relates to water management planning (see the ECO review in this section of the Supplement). The water level lowering observed by the applicants had killed game fish such as pickerel, destroyed habitat, and endangered wildlife dependent on the biota in the lake. The draining of the lake disrupted riparian activities and public enjoyment, and made boat launch impossible. The applicants were also concerned that the muddy bottom of the reservoir was dangerous to moose and other wildlife.

The applicants alleged contravention of s. 16 and s. 17. of the *LRIA*, stating that:
"Great Lakes Power Ltd. in contravention of the *Lakes and Rivers Improvement Act* purposes and sections 16 and 17, reduced the water level on Rocky Island Lake so as to effectively drain it. This has the effect of killing fish, destroying habitat, and endangered other wildlife. The lowered levels of the lake were noticed in July, 2002."

The Mississagi River is located in the Sudbury and Algoma Districts north of Lake Huron, and originates at Biscotasi Lake, located 110 km northeast of the City of Elliot Lake. From this point the Mississagi River runs southwest through Mississagi River Provincial Park to Rocky Island Lake, which is the first section of the river system regulated for hydroelectric power production. Further south, the river passes through more parkland, then through a series of four hydroelectric generating stations and a number of lakes and reservoirs, prior to emptying into the North Channel of Lake Huron just west of the Town of Blind River. The river supports a range of aquatic ecosystems and human uses, including swimming, canoeing, angling, seasonal and permanent residences, and tourism operations.

Between 1950 and 1970, four hydro-electric generating stations were built on the Mississagi River and they have a combined generating capacity of 488 MW. Four water storage dams – Control Dam, Side Dam No. 1, Side Dam No. 2, and Round Lake Dam provide storage for and facilitate the peaking operation of the generating stations. Rocky Island Lake is the primary reservoir for hydroelectric production on the Mississagi River.

Brascan Corporation purchased all four of these generating stations and related structures from Ontario Power Generation in May 2002. Great Lakes Power /Mississagi Power Trust, a subsidiary company of Brascan Corporation, operates these facilities. The four generating stations along the river are operated as a cascading system with each facility dependent on flow released from upstream operations.

The generating stations are operated as peaking facilities, which means that the water stored water in their reservoirs is used for power generation during peak electricity demand hours.

During the summer of 2002, a long heat wave in Ontario caused a surge in electricity demand and pushed hydroelectric prices upward sharply. Demand pushed all Ontario facilities, including those on the Mississagi River, to produce as much power as continuously as possible. As a result of operations, the water level of Rocky Island Lake continued to drop until it was essentially empty by the end of July 2002. Apparently no overall operational plan existed prescribing a sustainable flow rate that would accommodate power production while leaving the Rocky Island Lake reservoir at a level that would allow fish survival, water resource use for recreation and preserve shoreline habitat.

Ministry Response:
MNR denied the investigation, advising the applicants that Great Lakes Power Ltd. was not in contravention of *LRIA* for the following reasons. The ministry stated that the control of water levels in Rocky Island Lake in the summer of 2002 did not relate to any activity of Great Lakes Power Ltd. altering, improving or repairing a dam such that section 16 of the *LRIA* and the related regulation would apply. Subsection 16(1) of the *Lakes and Rivers Improvement Act* states that "No person shall alter, improve or repair any part of a dam in the circumstances prescribed by the regulations unless the plans and specifications for whatever is to be done have been approved by the Minister."

Subsections 17(1) to 17(5) and 17.1(1) to 17.1(4) of *LRIA* deal specifically with the discretionary power of the Minister to issue "Orders" in certain circumstances. In addition, subsection 17.2(1) and (2) of the of the Act deal specifically with the discretionary power of the Minister to give a subsequent approval and modify previous orders. In its response MNR stated that because section 17 is a discretionary Order section providing authorization to the Minister, the alleged contravenor (Great Lakes Power Ltd.) could not have contravened this section as alleged by the applicants.

MNR also considered other legislation in addition to the sections of the *LRIA* which were referenced by the applicants. The ministry's further review included the *Fish and Wildlife Conservation Act* and the federal *Fisheries Act.* Subsection 35(1) of the *Fisheries Act* states that "No person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat. As of Sept. 18, 1997, MNR has withdrawn from enforcement of the habitat provisions (Section 35). MNR did state, however that they were taking steps to bring this matter to the attention of DFO.

Subsection 8(2) of the *FWCA* states that: "A person shall not intentionally damage or destroy the den or habitual dwelling of a fur bearing mammal, other than a fox or skunk unless the person holds a licence to trap fur bearing mammals. MNR states that because of the direction of water level change (dropping) and normal year fluctuations in water level, it is unlikely that the shoreline area would be the location of dens or habitual dwellings of fur bearing mammals. Moreover even if such were the case, MNR states that it would have to prove "intent" to successfully prosecute under this statute.

The ministry also speculated on whether the dam owners might have contravened the *Navigable Waters Protection Act (NWPA)*. This federal statute is administered by the Canadian Coast Guard. The *NWPA* prohibits the construction or placement of any work in navigable water without the approval of the CCG. MNR did not pursue this inquiry further, and it is not known if the federal authority would consider the dam in question to be in violation of the *NWPA*.

ECO Comment:

MNR's handling of the application was reasonable and its response to the alleged statutory violations was appropriate. With the exception of the *Fisheries Act*, the legislation examined by MNR in addition to the *Lakes and Rivers Improvement Act* failed to find any authority under which the operators of the hydroelectric facilities could be successfully be prosecuted. At this time it is not known if the federal authorities will prosecute the company alleging violations of s. 35(2) of the Act.

MNR provided an adequate response to the applicants and the ECO believes the rationale for denying the investigation was reasonable. The ministry was particularly thorough in its analysis, suggesting reasonable alternative mechanisms to resolve the issue.

The ministry took the additional initiative of bringing to the attention of the applicants the anticipated development of a Water Management Plan (WMP) for the Mississagi River system. An information notice describing this WMP was posted on the Registry on January 29, 2003 (XB03E2002). Water Management Plans are a recent MNR initiative and are authorized by recent amendments to the *LRIA*. (see the Decision Review on Water Management Planning for Waterpower in this Supplement) MNR states that had a WMP been in place, the observed situation of summer 2002 would not likely have occurred. The WMP for the Mississagi River is not scheduled for completion until the end of 2006.

During the summer of 2002, others expressed the concerns that led to this application. As a result, Great Lakes Power Ltd., First Nations and local outpost camp operators began discussions with MNR in the fall of 2002 to seek to prevent a recurrence. These parties have now negotiated an interim operating plan to bridge the period between 2002 and Dec. 31, 2006 when the new WMP will be in place.

The ECO also notes that the issuance of Permits to Take Water (PTTWs) is currently under review and may be changed by a proposed *Ontario Water Resources Act* regulation posted on the Registry in April 2003 (RA03E0009). PTTWs issued to hydroelectric power producers are exempt from the requirement to give public notice on the Registry under *s.32* of the *EBR*.

The Rocky Island Lake incident underscores the potential for problems resulting from changes in ownership of hydroelectric facilities. Against this backdrop, MNR's introduction of water management planning is very timely and affords the potential for natural resource values of river systems to be put on an equal footing with the economic values of hydropower generation. The ECO will monitor the interim water management plan development for the Mississagi River system. Particularly if 2003 is a dry year and hydroelectric demand is again high, prevention of a recurrence of the summer 2002 conditions in Rocky Island could represent a real test of the interim plan arrangement.

Review of Application I2002016:
Alleged *FWCA* Contraventions by a Hunting Outfitter
(Investigation Denied by MNR)

Background/Summary of Issues:
The Ministry of Natural Resources (MNR) received this application for investigation concerning alleged contraventions of the *Fish and Wildlife Conservation Act* (*FWCA*). The applicants allege that a hunting outfitter has contravened section 24(1) of the *FWCA* by using snowmobiles to drive wolves to awaiting hunters. The *FWCA* prohibits a person from using a vehicle for the purpose of killing, injuring, capturing, harassing, pursuing or chasing wildlife. Snowmobiles meet the definition of a "vehicle" under the *FWCA*.

The hunting outfitter is located in the United States and arranges for clients to hunt wolves near Timmins, Ontario using local guides. The applicants allege that the contraventions are likely to have occurred in the winter of 2002 and, following the filing of this application, in the winter of 2003. The applicants provided material from the outfitter's Web site as evidence that these techniques are used in the hunting of wolves. The outfitter's Web site, in part, states,

> A typical day will begin by checking a bait site on snowmobile. If it has been hit, the outfitter & guides will quickly drive the "perimeter" of the bait block to make sure the wolves are contained within it. If so, the hunters will then be taken to various positions or vantage points to await "The Drive". At this point while snowmobiles systematically monitor the sides of the block, a tracker will pursue the wolves on foot. It may take some time but eventually the wolves will get frustrated & break towards the hunters & this is where the action begins. The anticipation of being on stand & waiting for one of the most elusive game animals of the North to appear before you is unbelievable. It is true that not everyone will harvest a wolf on this hunt but it will not be from a lack of effort on the outfitters part. He and his team are extremely successful in driving wolves past hunters on a consistent basis.

The applicants contend that the hunting techniques advertised on the outfitter's Web site contravene s. 24(1) of the *FWCA* by using snowmobiles to contain wolves in a given area and, subsequently, drive or chase them towards waiting hunters. The applicants also allege that this use of snowmobiles also stresses and harasses the animals. The applicants believe that a failure to conduct an investigation would contribute to the misperception that the advertised hunting technique is legal.

The applicants believe that this inordinate hunting pressure on the wolves of the area will also disrupt their sensitive pack dynamics and may possibly lead to local extirpations. The applicants also suggest that it is likely that this outfitter and its clients is in fact hunting eastern wolves (*Canis lycaon*), rather than the more numerous and common grey wolves (*Canis lupus*). Eastern wolves are identified as a species of special concern by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and the federal *Species at Risk Act*. However, aside from hunting restrictions around Algonquin Provincial Parks, eastern wolves do not receive any type of classification as a species at risk in Ontario. While the applicants do acknowledge that eastern wolves are treated the same as grey wolves under Ontario's laws, they suggest that their federal classification as a species at risk is further grounds that the ministry should conduct an investigation.

Ministry Response:
MNR denied this application for investigation. The ministry believes that the activities described on the outfitter's Web site would not constitute a contravention of s. 24(1) of the *FWCA*. MNR believes that the applicants' concerns may be based on a misunderstanding and misinterpretation of the language commonly used by the hunting community. The ministry states that the language does not describe a process of containing and chasing animals by snowmobiles, but a process of driving snowmobiles around the perimeter of an area to determine if animals have crossed over this perimeter. The term "drive" in the context of this advertisement involves persons on foot or snowshoe "driving" or impelling animals toward a location and does not mean using a vehicle. MNR states that it is the act of driving animals by foot that frustrates the wolves and moves them toward the location of the hunters.

MNR did not meet the technical requirements of the *EBR* in handing this application for investigation. The ministry received the application on October 28, 2002. The applicants were told that if an investigation was to be conducted, that they would be notified within 60 days. The applicants were notified of the ministry's decision to not conduct an investigation on January 8, 2003, which is 11 days late.

Themes and Links:
The ECO reviewed the temporary ban on hunting and trapping wolves in the townships surrounding Algonquin Provincial Park in its 2001/2002 annual report. The viability of that population of eastern wolves is at issue due to the high levels of human-caused mortality caused outside the protection of the park. The Population Habitat Viability Assessment report, done for the park's population of wolves, did recommend that the full habitat of the eastern wolf be assessed by MNR to determine the overall status of the species. The ECO also recommended that MNR maintain the moratorium on the hunting and trapping of eastern wolves in the townships surrounding Algonquin Provincial Park until such time as the population is scientifically demonstrated to be viable.

In 2002, the ECO received an application for review from the Ottawa Valley Chapter of the Canadian Parks and Wilderness Society and Sierra Legal Defence Fund asking that MNR consider the need for a provincial wolf conservation strategy and to list the eastern wolf on the ministry's list of Vulnerable, Threatened, Endangered, Extirpated, or Extinct Species in Ontario.

ECO Comment:
The ECO agrees with MNR that the language used in the advertisement is open to interpretation. However, the vague language contained in the advertisement is not adequate in itself to establish whether a contravention of the *FWCA* may have actually taken place in 2002 or early 2003. It does not relieve MNR of its obligation to ensure that outfitters comply with the *FWCA*.

Unfortunately, MNR has placed the burden of proof on the applicants and has adopted an interpretation of the facts that endorses the outfitter's position. The ECO is concerned that MNR did not even contact the outfitter. The ECO encourages MNR to regularly monitor the hunting practices of outfitters in general to ensure awareness of and compliance with the *FWCA*.

The ministry's response to the applicants was clearly written and used plain language. However, MNR should have provided the applicants and the ECO with reassurance that it undertakes all reasonable measures to enforce the *FWCA*, including the prohibition against illegally using vehicles while hunting. The ECO questions whether the ministry endorses this use of snowmobiles in the hunting of game animals, such as moose or deer.

While not directly related to a possible contravention of the *FWCA*, the ministry did not dispel the applicants' concern that the outfitters may have in fact be hunting eastern wolves, a species of special concern.

SECTION 7

EBR LEAVE TO APPEAL APPLICATIONS

SECTION 7: *EBR* LEAVE TO APPEAL APPLICATIONS
April 1, 2002 to March 31, 2003, Status as of June 30, 2003

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
Registry # IA00E0427 **Applicants:** Carol S. Dillon and Melvyn E.J. Dillon; The Council of Canadians; Ken McRae; Michael Cassidy and Maureen Cassidy; Eileen Naboznak; Barbara Zents and Ray Zents; Anne German; Kathleen Corrigan **Ministry:** MOE **Proponent:** OMYA (Canada) Inc. **Date Application**	The applicants sought leave to appeal the decision to issue a PTTW increasing the allowable water taking from the Tay River to 4,500 m^3/day by the year 2009. The grounds for seeking leave included the following: the Director failed to protect the quality of the natural environment and foster the efficient use and conservation of resources by granting permission to take more water than the proponent requested; the Director based his decision on insufficient data; there was a lack of independence in the	The ERT granted the leave to appeal application on the grounds that it was not reasonable for the Director to issue a PTTW for the taking of water in the absence of sufficient, pertinent data on the Tay River watershed. The ERT found that the absence of this information created a degree of uncertainty about impacts on the aquatic habitat of the Tay River which raised the possibility of significant harm to the environment. **Date of Leave Decision:** November 6, 2000	Appeal allowed in part by the ERT. Approval was given for a PTTW with revised and additional conditions. (See below for the partial reversal of this decision by the Minister.) The Tribunal was not satisfied that MOE had undertaken sufficient evaluation to assure that the ecosystem, the Tay River watershed, would not be harmed with the taking of 4,500 cubic metres per day of water from the Tay River. Given that more detailed and comprehensive work would need to be done to assess the impacts of the much larger taking of water, the Tribunal decided that OMYA should be required to submit a new application to MOE under the *OWRA* for Phase 2 of the PTTW. The Tribunal decision also notes that MOE's SEV indicates that

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
received by ECO: September 6, 2000 **Instrument:** Permit to Take Water (PTTW), s. 34, *OWRA* Dillon et al., continued	important functions of study, recording, and monitoring; and the Director failed to follow MOE's Statement of Environmental Values.		it does not apply to instruments issued by the ministry. However, the Tribunal held that the SEV should be considered each time an application for a PTTW is considered by MOE. **Date of Appeal Decision:** February 19, 2002 **Final Outcome:** In March 2002, OMYA appealed the ERT's decision to the Minister of the Environment. On February 14, 2003, the Minister released his decision which partially overturned the ERT's decision. The Minister permitted the taking of up to 1,483 cubic metres per day prior to January 1, 2004 and a maximum of 4,500 cubic metres per day on or after January 1, 2004. The Minister also amended conditions related to annual reporting and public meetings. The PTTW expires on January 1, 2010.
Registry # IA01E0430	The applicants sought leave to appeal the decision to issue an	The ERT granted the leave to appeal application on the basis of the first ground submitted by the applicants,	Appeal pending

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
Applicants: Ellen Smith; Craig Edwards; Gilles Desmarais; Angie Desmarais; Paul Gingras; Carmel Gingras; Ron St. Jean **Ministry:** MOE **Proponent:** Inco Limited **Date Application received by ECO:** April 15, 2002 **Instrument:** Order, s. 17, *EPA*	order for remedial work. The grounds for seeking leave included the following: the Order exceeds MOE's own absolute maximum guideline for nickel contamination in soil of 7,100 ppm; it allows cancer risks to exceed MOE's written policy of not permitting cancer risks greater than one in one million; and it allows contamination to exceed levels 8 times greater than those already known and acknowledged by MOE to have significantly harmed the natural environment in Port Colborne.	finding that the applicants had shown good reason to believe that the Director's decision was unreasonable, and that there was a possibility of substantial environmental harm. The Director argued his discretion should not be fettered by automatically adhering to non-binding, generic guidelines numbers, but the Tribunal found that the onus is on the Director to show valid reasons for departing from such guidelines. The guideline in question established an "absolute upper maximum" concentration level, and the Tribunal held that the use of such terms has the effect of reducing the degree of discretion available to the Director. MOE did not show sufficient justification to depart from this standard. Having granted leave to appeal on this first ground, the ERT decided that it did not need to adjudicate on the other grounds submitted by the applicants. **Date of Leave Decision:** July 11, 2002	The applicants sought judicial review at the Ontario Superior Court of Justice – Divisional Court of the ERT's decision to grant leave to appeal based on only one ground. The applicants took the position that once an applicant has met the stringent leave test in respect of one issue, any other ground of appeal may be added that does not meet the test. The court rejected the applicants' position and upheld the ERT's decision, dismissing the application for judicial review on the basis of prematurity, and that the Tribunal's decision was reasonable. In the meantime, and prior to the Divisional Court decision, the ERT had clarified that all but the second and third grounds raised by the applicants would be considered as part of the appeal.

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
Registry # IA01E1063 **Applicants:** Trent Talbot River Property Owners Association (TTRPOA); Marchand Lamarre and Jodi McIntosh; and Sandra Southwell **Ministry:** MOE **Proponent:** Stan McCarthy **Date Application received by ECO:** November 8, 2002 **Instrument:** PTTW, s. 34, *OWRA*	The applicants sought leave to appeal the decision to issue a PTTW to dewater a proposed quarry. The grounds for seeking leave included the following: the PTTW application contains conflicting estimates of the quarry's influence on the groundwater; the model submitted to the Director to estimate drawdown is based on four inaccuracies that underestimate the drawdown radius; and there was no consideration of the potential impact on significant surface water features such as the impact on springs, wetlands, or the Trent	The ERT granted the leave to appeal application of TTRPOA, Marchand Lamarre and Jodi McIntosh on the grounds that: the opinion of the Director "that the taking of water from the quarry would result in a drawdown of the water table in an area limited to the immediate surroundings of the site" is too conservative an interpretation of the data and modeling; the proposed quarry is located in a recharge area; and the vulnerability of the drilled wells to sulphurous and salty water emphasizes that there is potential for impacts on water quality as well as quantity. The ERT denied the leave to appeal application of Sandra Southwell based on insufficient evidence and because issuance of a PTTW is unrelated to the issuance of a Certificate of Approval for waste water discharge **Date of Leave Decision:** January 8, 2003	Appeal pending

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
	Canal.		
Registry # IA02E0117 **Applicants:** John E. Hartley; Shirley Hartley; John McKean; and Lea McKean **Ministry:** MOE **Proponent:** Paradise Springs Inc. **Date Application received by ECO:** November 27, 2002 **Instrument:** PTTW, s. 34, *OWRA*	The applicants sought leave to appeal the decision to issue a PTTW for a water bottling operation. The grounds for seeking leave included the following: MOE should not allow this water taking activity to proceed until it has completed its review of the PTTW approval process and amended its notification process; there was no consideration of the suitability of a rural zoned land use area for an industrial operation; the hydrogeological report used in the MOE assessment is outdated	The ERT denied the leave to appeal application on the grounds that the applicants had submitted no evidence to support their application. The ERT decided that the Director considered all relevant law and policy developed with respect to permits for water taking, carefully reviewed the PTTW with particular emphasis on the potential for interference with existing water supplies and the sustainability of the natural function of surface water resources. The ERT found that the Applicants' concerns about the present Registry notification and public comment process for PTTW applications have merit, but ruled that MOE followed the proper guidelines and procedures which have been set out. The ERT is confident that the Registry notice and comment process may change in the future, as indicated by correspondence submitted in the leave to appeal application from	Leave to appeal application denied

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
	by sixteen years and should not be considered adequate for the purpose of approving a PTTW; and there was no consideration of the fact that MOE London has reduced PTTW permit quantity by more than 50% due to concerns associated with the sustainability of bulk water supply.	elected and government officials to the applicants. **Date of Leave Decision:** December 27, 2002	
Registry # IA02E0419 **Applicant:** Ken McRae on behalf of Friends of the Jock River **Ministry:** MOE **Proponent:** Dibblee Paving & Materials	The applicant sought leave to appeal the decision to issue a C of A for sewage works for quarry discharges. The grounds for seeking leave included the following: MOE failed to include an expiry date in the C of A for the quarry sewage works; the C of A fails to	The ERT dismissed the application for leave to appeal because it was not filed with the Tribunal within 15 days of the decision notice as required in the *EBR*. **Date of Leave Decision:** December 18, 2002	Leave to appeal application dismissed

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
Limited **Date Application received by ECO:** November 28, 2002 **Instrument:** Certificate of Approval (C of A) for sewage works, s. 53, *OWRA*	indicate how long the owner has to measure, record and calculate the flow rate from the quarry's discharges; the condition requiring the owner to install a continuous flow monitoring device for a specified location on Flowing Creek, is only in effect for a period of at least one year; and MOE did not use an ecosystem approach in evaluating this C of A, and has not followed the values outlined in MOE's SEV.		
Registry # IA02E0679 **Applicant:** Ken McRae on behalf of Friends of the Jock	The applicant sought leave to appeal the decision to issue a C of A for sewage works for quarry discharges. The grounds for seeking	The ERT dismissed the application for leave to appeal because it was not filed with the Tribunal within 15 days of the decision notice as required in the *EBR*.	Leave to appeal application dismissed

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
River **Ministry:** MOE **Proponent:** Thomas Cavanagh Construction Limited **Date Application received by ECO:** December 8, 2002 **Instrument:** C of A for sewage works, s. 53, *OWRA*	leave included the following: MOE failed to include an expiry date in the C of A for the quarry sewage works; the C of A fails to indicate how long the owner has to measure, record and calculate the flow rate from the quarry's discharges; the condition requiring the owner to install a continuous flow monitoring device for a specified location on Flowing Creek, is only in effect for a period of at least one year; and MOE did not use an ecosystem approach in evaluating this C of A, and has not followed the values outlined in MOE's SEV.	**Date of Leave Decision:** January 3, 2003	

Parties and Date of Leave Application	**Description of Grounds for Leave to Appeal**	**Decision on Leave Application and Decision Date**	**Status/Final Outcome**
Registry # IA02E0476 **Applicant:** City of Hamilton **Ministry:** MOE **Proponent:** Frank Ivanic (Split Auto Body) **Date Application received by ECO:** February 14, 2003 **Instrument:** C of A (Air), s. 9, *EPA*	The applicant sought leave to appeal the decision to issue a C of A for a paint spray booth. The grounds for seeking leave included the following: the current operation is not a legal non-conforming use of the property; the proponent failed to disclose that an adjacent property is agricultural land; the applicant was not consulted about the proponent's application for a C of A; the decision of the Director is contrary to general policy and sound land use principles; and significant harm to the environment will result from the mixing of two incompatible adjacent	The ERT denied the leave to appeal application on the grounds that: the C of A met the criteria established under relevant environmental laws and the Director was not required to ascertain if the application conforms to municipal or regional by-laws; the applicant has not provided any evidence that the proponent's operations will adversely affect the agricultural land or the growing and harvesting of crops on that land; and applicant has recourse under its own municipal by-laws if it believes those by-laws have been contravened. **Date of Leave Decision:** March 10, 2003	Leave to appeal application denied

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
	land uses if the proponent continues to operate his business on land that is zoned agricultural.		
Registry # IA02E0921 **Applicant:** Anna Scott **Ministry:** MOE **Proponent:** Aurora Beverage Corporation **Date Application received by ECO:** March 6, 2003 **Instrument:** PTTW, s. 34, *OWRA*	The applicant sought leave to appeal the decision to issue a PTTW for a water bottling operation. The grounds for seeking leave included the following: the initial application for the PTTW was false in that it did not disclose that the proponent did not yet own the property; this was an invalid PTTW because it was granted to the proponent before it purchased the property from which water will be taken; the water taking may cause significant	The ERT denied the leave to appeal application on the grounds that a number of the applicant's concerns about potential environmental effects of the water taking were not substantiated, and the ERT was satisfied that the Director had included sufficient monitoring conditions in the PTTW to give assurance that the springs and creek would not be adversely affected. The ERT found no evidence that the conclusions in the consultant's report relied on by the Director were inadequate, and noted that MOE acknowledged recent droughts and included a sufficient condition to deal with dry weather in the future. The ERT expressed concern that the Director had not consulted on the proposed water taking with the municipalities and the	Leave to appeal application denied

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
	harm to the environment if it reduces water levels in nearby wells or impacts fish habitat; use of a 10-year-old report was inappropriate; and MOE failed to solicit comments from the federal Department of Fisheries and Oceans (DFO), the local conservation authority and the local municipality regarding the fish habitat.	federal DFO, and advised MOE to seek broader advice of the other levels of government in light of their experience and jurisdiction in relation to managing water resources. **Date of Leave Decision:** June 13, 2003	
Registry # IA02E1478 **Applicants:** Ken McRae and Selena Walker **Ministry:** MOE **Proponent:** Thomas	The applicants sought leave to appeal the decision to issue a C of A for sewage works for quarry discharges. The grounds for seeking leave included the following: MOE failed to include an expiry date in the C of A for the	The ERT denied the leave to appeal application on the grounds that the evidence submitted by the appellants did not justify or give credence to their concerns so as to meet the test for leave to appeal pursuant to s.41 of the *EBR*. The ERT indicated that the application and supporting materials must contain convincing expert evidence. The ERT decided that the decision of the Director,	Leave to appeal application denied

Parties and Date of Leave Application	**Description of Grounds for Leave to Appeal**	**Decision on Leave Application and Decision Date**	**Status/Final Outcome**
Cavanagh Construction Limited **Date Application received by ECO:** March 20, 2003 **Instrument:** C of A for sewage works, s. 53, *OWRA*	quarry sewage works; there is no coordinated surface water monitoring program to address the dewatering discharges from the four quarries in the area; the minimum three year record retention period is too short; and MOE did not use an ecosystem approach in evaluating this C of A, and has not followed the values outlined in MOE's SEV.	MOE to issue the Certificate of Approval was reasonable. **Date of Leave Decision:** June 12, 2003	

SECTION 8

EBR COURT ACTIONS

SECTION 8: *EBR* COURT ACTIONS
April 1, 2002 to March 31, 2003

Parties and Date of Claim	Description of Grounds for Claim	Status/Final Outcome
Registry #CQ7E0001.P **Plaintiff:** Shirley Wallington Grace **Defendants:** Corporation of the Town of Fort Erie and the Regional Municipality of Niagara **Date Statement of Claim Issued:** August 22, 1997 **Type of Action:** Public nuisance action, s. 103, *EBR* **Court Location:** Superior Court of Justice, Welland	The plaintiff has begun a class action proceeding against her local municipality, which operates a municipal water system, and her regional municipality, which owns and operates the water treatment plant that supplies Fort Erie's water system. The plaintiff alleges that the water supplied to residents is frequently contaminated by iron rust and is also contaminated by microorganisms present at levels that exceed the Ontario Drinking Water Objectives and the Guidelines for Canadian Drinking Water Quality. The plaintiff claims that the contaminated water is a nuisance, and makes a number of other claims against the defendants. The plaintiff claims $30 million in damages and an injunction preventing the defendants from adding corrosion inhibitors to the water they supply.	Action pending. The plaintiff's certification motion was heard in April and May of 2003, along with defendant motions for summary judgment. The court reserved judgment, and a decision is expected in the fall of 2003.

Parties and Date of Claim	Description of Grounds for Claim	Status/Final Outcome
Registry #CQ8E0001 **Plaintiffs:** Karl Braeker, Victoria Braeker, Paul Braeker and Percy James **Defendants:** Her Majesty the Queen in Right of Ontario, 999720 Ontario Limited, and Max Heinz Karge **Date Statement of Claim Issued:** July 27, 1998 **Type of Action:** Harm to a public resource action, s. 84, *EBR* **Court Location:** Superior Court of Justice, Grey County (West Region)	The plaintiffs live next to property owned by the defendant Karge, located in Egremont Township in the County of Grey. The plaintiffs claim that the property is the site of an illegal waste dump and that substances emanating from the site are contaminating or will imminently contaminate the subsoil, groundwater, and surface water in the surrounding vicinity, including the plaintiffs' wellwater. They claim that the defendants are responsible for this contamination. The damages sought by the plaintiffs include: an injunction preventing the use of the property for any use other than rural uses; an environmental restoration plan to prevent, diminish or eliminate harm to a public resource caused by contaminants emanating from the waste dump and to restore the site to its prior condition; and damages in excess of one million dollars.	Action pending. The parties are currently in the discovery process. Notice was approved by the court and placed on the Registry on December 23, 1999.

Parties and Date of Claim	**Description of Grounds for Claim**	**Status/Final Outcome**
Registry #CQ9E0001 **Plaintiffs:** John Brennan and Lynn Brennan **Defendant:** Board of Health for the Simcoe County District Health Unit **Date Statement of Claim Issued:** June 16, 1999 **Type of Action:** Public nuisance action, s. 103, *EBR* **Court Location:** Superior Court of Justice, Barrie	The plaintiffs claim that the defendant breached its duty of care to them and was negligent by issuing certificates of approval for sewage systems at two chalets at the Snow Valley ski resort when the sewage system designs were substandard and incapable of handling the intended loads on the systems. The plaintiffs maintain that this breach has caused a nuisance and is polluting the plaintiffs' property, resulting in unsafe water, environmental damage and reduced property values. The plaintiffs allege that the defendant should not have issued the Certificate of Approval and rely on the *Ontario Water Resources Act*, the *Environmental Protection Act*, the *Health Promotion and Protection Act* and their regulations, but do not allege that the defendant has contravened a specific environmental law. The plaintiffs claim full compensation for their losses.	The plaintiffs also made a claim under s. 84 of the *EBR* (harm to a public resource). This has not yet been posted on the Registry, pending court approval of notice of the action under s. 87 of the *EBR*. In July 2003, the ECO was informed that, on June 16, 2002, the court dismissed the action without costs because the plaintiffs did not wish to continue with it.

Parties and Date of Claim	**Description of Grounds for Claim**	**Status/Final Outcome**
Registry #CQ01E0001 **Plaintiff:** Wilfred Robert Pearson **Defendants:** Inco Limited, The Corporation of the City of Port Colborne, The Regional Municipality of Niagara, The District School Board of Niagara, and The Niagara Catholic District School Board **Date Statement of Claim Issued:** 2001/03/26 **Type of Action:** Public nuisance action, s. 103, *EBR* **Court Location:** Superior Court of Justice, Welland	The plaintiff maintains that the defendant has and does emit and discharge hazardous contaminants into the natural environment, including the air, water and soil of Port Colborne. The contaminants include oxidic, sulphidic and soluble inorganic nickel compounds, copper, cobalt, chlorine, arsenic and lead. The plaintiff claims that the defendant is liable for the activities at the refinery and the ongoing release of contaminants into the environment and onto the lands of the class members, based on the following causes of action: negligence; nuisance; public nuisance under s. 103 of the *EBR*; trespass; discharging contaminants with adverse effects under s. 14 of the *EPA*; and the doctrine of strict liability in *Rylands and Fletcher*. The plaintiff claims punitive and exemplary damages in the amount of $150 million, and compensatory damages in the amount of $600 million.	The certification motion was heard in June 2002. In a judgment dated July 15, 2002, the Ontario Superior Court of Justice dismissed the plaintiff's certification motion on the following grounds: the plaintiff failed to disclose a reasonable cause of action against the Region, the City or the Crown; there was no identifiable class; and a class proceeding is not the preferable procedure for resolving the issues found to be common among the class members. The plaintiff and class members appealed this decision to the Divisional Court and a hearing was held in June 2003, but a decision in the matter is still pending. In September 2002, the Superior Court of Justice held the plaintiff liable for costs on the certification motion.

SECTION 9

CHRONOLOGY OF CHANGES TO PROVINCIAL POLICIES ON AGRICULTURAL LAND PROTECTION, 1970 – 2003

SECTION 9: CHRONOLOGY OF CHANGES TO PROVINCIAL POLICIES ON AGRICULTURAL LAND PROTECTION, 1970 – 2003

Introduction

To provide background to the *EBR* application for review submitted by the Preservation of Agricultural Lands Society – and context for our review of how the Ministry of Municipal Affairs and Housing (MAH) handled that application (see pages 131-133 in this year's annual report), staff at the ECO undertook research on the history of Ontario's legal and policy initiatives on agricultural land protection. (The full chronology of past government initiatives appears below.)

For more than 30 years, policy-makers, planners and other stakeholders across Ontario have struggled with the issue of protection of agricultural lands, especially those agricultural lands bordering on growing urban areas. In 1985, the Royal Commission on the Economic Development Prospects for Canada reported that 37 per cent of Canada's Class 1 agricultural land and 25 per cent of Canada's Class 2 agricultural land could be seen from the top of Toronto's CN Tower, and were at risk of being rapidly urbanized. A significant portion of these valuable lands were developed in the next 18 years.

There is a wide diversity of opinion in Ontario on whether agricultural land should be protected. Some environmentalists, farmers, municipal officials and planners say that urban sprawl should be curbed in order to preserve agricultural lands to ensure that future generations have access to high quality land to grow food. In contrast, many farmers believe that they must have freedom to sell their land or sever portions for development because this allows them to finance their agricultural operations. For decades, developers have argued that tough land development restrictions drive land prices up, and can cause housing prices to escalate. Similarly, some economists contend that it doesn't make sense to impose tough restrictions to protect these lands because cheap food can be imported from other jurisdictions. In doing so, they discount the large infrastructure and energy supplies that are required to import food and ignore as well as the arguments that Ontario should try to maintain some capacity for self-sufficiency.

In the late 1960s, protection of agricultural land became an important public policy issue in Ontario. In 1970, the Ontario government announced Design for Development, the Toronto-Centred Region Plan, which sought to protect certain green spaces and parkway belts surrounding the Greater Toronto Area (GTA) from future development and to promote development nodes in communities at the edges of the GTA. However, this policy was never given full legal effect, and gradually much of the parkway belt agricultural land around the GTA was urbanized.

In 1978, the Ontario government announced its "Food Land Guidelines," which required municipalities to identify lands with agricultural potential, rate them in order of priority and evaluate the impacts that would be caused by alternative uses of the lands. The overall goal of the policy was to encourage municipalities and other decision-makers to protect Class 1 and 2 agricultural lands. A related goal was to provide municipalities such as the Regional Municipality of Niagara with better legal tools to protect their tender fruit lands.

In practice, guidelines such as these often proved ineffective because the Ontario Municipal Board (OMB) and other decision-makers were not required to apply them, since section 3 of the *Planning Act* merely required that a decision-maker "must have regard to" these types of policies. Moreover, in 1981 the Supreme Court of Canada ruled that the Ontario government would have to amend the *Ontario Municipal Board Act* and the *Planning Act* to require expressly that the OMB had to apply its policies if it wanted the OMB to do so in every case.

Thus, for example, in January 1986, the OMB approved development on 2,220 hectares (5,500 acres) of prime agricultural land north of Brampton, ruling that "in a competitive regional market … there is nothing the city can do, in the name of preserving prime agricultural land, to compel developers to build housing of types and densities the developers know cannot be sold." In effect, the OMB felt it must "defer" to market pressure for large houses on large lots, and could not impose density requirements on the developer. A series of similar high profile OMB cases involving agricultural land protection in the early 1980s showed that many development projects that appeared to conflict with government policy could still be brought before the OMB with a reasonable expectation of approval, providing proponents could show some unique or redeeming land development features.

In 1994, the Ontario government tried to provide decision-makers with a clearer legal and policy framework, when sub-section 3(5) of the *Planning Act* was amended so that decisions of planning bodies had to be "consistent with" provincial policy statements such as those on agricultural land conservation. However, this change was reversed in May 1996, and now once again the Act requires merely that decisions of planning bodies "shall have regard to" provincial policy statements. Many experts believe that this amendment, and other related changes to the land use planning system implemented by the Ontario government since 1995, helped to spur a strong resurgence in land development in many parts of southern Ontario, putting even greater pressure on agricultural lands.

In the past three years, the Ontario government has undertaken a number of promising initiatives such as the *Oak Ridges Moraine Conservation Act, 2001,* and it is possible that these initiatives will result in better long-term local and provincial decisions to protect agricultural lands. Moreover, in February 2003, the Central Ontario Smart Growth Panel recommended to the Ontario government that "unique and high-quality agricultural lands" should be protected for future generations and that farming should become productive, diverse and sustainable. The ECO will track further developments in this area and provide updates in future reports.

Chronology

1970: Ontario government announced Design for Development, the Toronto-Centred Region Plan. This policy sought to protect certain green spaces and parkway belts surrounding the Greater Toronto Area (GTA) from future development, and attempted to promote development nodes in communities at the edges of the GTA. However, this policy was never given full legal effect, and gradually much of the parkway belt agricultural land around the GTA was urbanized.

Feb. 1977: To preserve tender fruit lands, Cabinet decided to significantly reduce the amount of land set aside for development in the Official Plan developed by the Regional Municipality of Niagara, and approved by the OMB.

Oct. 1977: The Ontario Municipal Board (OMB) ruled on the Barrie Annexation Case. The City of Barrie had forecast that the population of the city would increase to 125,000 by the year 2011, and that this would necessitate the annexation of agricultural lands from adjacent municipalities. The Ontario government sent a letter to the OMB stating that the projection was government policy. Opponents to the annexation sought to challenge the policy and cross-examine the Minister on the policy. The OMB ruled that it was bound by the government policy; the objectors appealed to Divisional Court, and eventually, to the Supreme Court of Canada.

1978: The Ontario government announced its "Food Land Guidelines". The Guidelines required municipalities to identify lands with agricultural potential, to rate them in order of priority and to evaluate the impacts that would be caused by alternative uses of the lands. The overall goal of the policy was to encourage municipalities and other decision-makers to protect Class 1 and 2 agricultural lands. A related goal was to provide certain municipalities such as the Regional Municipality of Niagara with better legal tools to protect their tender fruit lands. Relative to other systems for protecting agricultural lands in North America and Europe, academics described the initial Ontario system as decentralized and flexible, but also potentially weaker than other systems.

May 1981: Supreme Court of Canada ruled on the appeal from the OMB's October 1977 decision on the Barrie Annexation Case. The SCC stated that the Ontario government can only require the OMB to follow government policy if it amends the *Planning Act* to explicitly require this.

1981: The OMB approved housing development on 4,900 hectares (12,000 acres) of Class 1 agricultural land in Mississauga.

August 1983: The *Planning Act, 1982* was proclaimed in force, clarifying that planning bodies "shall have regard to" policy statements issued by the Ontario government. In effect, the Ontario government decided not to bind the OMB and preserved its discretion to decide each land use planning dispute on its merits.

Sept. 1985: The Royal Commission on the Economic Development Prospects for Canada headed by Donald Macdonald reported that 37 percent of Canada's Class 1 agricultural land and 25 percent of Canada's Class 2 agricultural land could be seen from the top of Toronto's CN Tower, and were at risk of being rapidly urbanized. A significant portion of these valuable lands subsequently were developed in the next 18 years but the ECO has been unable to obtain an accurate estimate as to how much of this land was developed.

January 1986: The OMB approved development on 2,220 hectares (5,500 acres) of prime agricultural land north of Brampton. The OMB ruled that it "in a competitive regional market ... there is nothing the city can do, in the name of preserving prime agricultural land, to compel developers to build housing of types and densities the developers know cannot be sold." In other words, the OMB felt it must "defer" to market pressure for large houses on large lots, and could not impose density requirements on the developer. This decision followed a series of similar several high profile cases involving agricultural land protection that were argued at the OMB. In most cases, the OMB did not impose strict requirements on municipalities and developers seeking to convert agricultural land to other "higher" uses. These OMB decisions showed that many development projects appearing to conflict with government policy could still be brought before the Board with a reasonable expectation of approval providing proponents could show some unique or redeeming land development features.

Feb. 1986: The Ontario government released a revised policy statement titled "Foodland Preservation", partly in response to criticism that Ontario government policy was not adequately protecting land from development pressure. This policy puts less emphasis on classification of agricultural land, and is seen by some experts as a weakening of the 1978 Foodland Guidelines.

1988: The Ontario government enacted the *Farm Practices Protection Act*, providing farmers with protection from nuisance lawsuits and establishing an independent tribunal to adjudicate disputes between farmers and landowners. This law addressed conflicts that were arising because many municipalities were issuing land severances to farmers in predominantly rural areas.

1989: The number of land severances granted to farmers by the Planning Approvals Committee (PAC) in the County of Grey reaches 1,887. In 1984, the Grey County PAC approved only 281 land severances. Farmers argue that land severances are a basic right, and allow them to finance their agricultural operations.

May 1990: The Ontario government released "Space for All: Options for a GTA Green Lands Strategy". Prepared by Ron Kanter, a Liberal MPP, the report described land stewardship options to conserve rural lands in the GTA.

June 1991: The Ontario government appoints John Sewell to lead a Commission on Planning Reform. In June 1993, the Commission recommends that land use planning should protect quality agricultural areas.

September 1992: MAH releases "Growth and Settlement: Policy Guidelines", a set of guidelines for municipalities on how and where new provincial growth and settlement should occur. The report advises municipalities that when considering official plan amendments and development proposals, they should integrate environmental, economic and social considerations and protect natural and cultural heritage.

1993: In response to Sewell Commission recommendations, MAH begins work to consolidate and revise Ontario government policies related to land use planning. The MAH consolidation of policies is formally released in early 1995.

November 1994: The Ontario government establishes the Niagara Tender Fruitlands Program. This program was established to protect 800 hectares (2000 acres) of Niagara tender fruit lands from conversion to non-farming uses. Under the program the province committed $19 million and Niagara region committed $1 million over a 10 year period. Restrictive covenants on property rights were to be established. However, the program was voluntary.

December 1994: The Ontario government tried to provide decision-makers with a clearer legal and policy framework when sub-section 3(5) of the *Planning Act* was amended so that decisions of planning bodies (e.g. a town council or the OMB) had to be "consistent with" provincial policy statements such as those on agricultural land conservation. Under sub-section 26(1) official plans had to be reviewed every five years to ensure that they are "consistent with" MAH policy statements.

November 1995: The Ontario government cancels the Niagara Tender Fruitlands Program as a cost-saving measure.

January 1996: MAH posts a proposal notice on the Registry for a revised Provincial Policy Statement (PPS) under the *Planning Act*. The revised PPS states that planning decisions will protect prime agricultural areas for agriculture and restrict proposed secondary uses that have a negative effect on agriculture.

May 1996: The 1994 *Planning Act* changes are reversed, and now once again the Act requires that decisions of planning bodies "shall have regard to" provincial policy statements. Many experts believe that this amendment, and other related changes to the land use planning system implemented by the Ontario government since 1995, helped to spur a strong resurgence in land development in many parts of southern Ontario, putting even greater pressure on agricultural lands.

October 2002: North Pickering Land Exchange Review Panel, chaired by David Crombie, released a document, the Draft Principles for the North Pickering Land Exchange and Development, for public consultation. One of the panel's draft recommendations was that land referred to as the Duffin Rouge Agricultural Preserve remain in agricultural use in perpetuity. In April 2003, the Minister of Municipal Affairs and Housing signed a Minister's Zoning Order under the *Planning Act* to protect these agricultural lands, superceding municipal authority to zone the lands.

February 2003: Central Ontario Smart Growth Panel reports to the Ontario government on its initial work and recommends that "unique and high-quality agricultural lands" should be protected for future generations and farming should become productive, diverse and sustainable.

SECTION 10

UNDECIDED PROPOSALS IN 2002/2003

SECTION 10: UNDECIDED PROPOSALS

As required by Section 58 of the *EBR*, the following are the numbers of proposal notices posted on the Environmental Registry between April 1, 2002 and March 31, 2003 that were not decided by April 1, 2003.

	Policies	Acts	Regulations	Instruments
MOE	21	0	11	1,038
MEST	0	0	3	0
MNR	30	2	6	107
MTO	1	0	0	0
MAH	3	0	1	49
OMAF	0	0	2	0
TSSA	0	0	2	0
MNDM	1	0	0	2

As required by Section 58 of the *Environmental Bill of Rights*, the following are the proposal notices posted on the Environmental Registry between April 1, 2002 and March 31, 2003 that were not decided by April 1, 2003.

1. "PB00E6007" Type of Posting: "Policy" Status: "Proposal"
"Community conservation lands" under the Conservation Land Tax Incentive Program (CLTIP)
- 4/3/02 12:43:00 PM

2. "RA02E0007" Type of Posting: "Regulation" Status: "Proposal"
Proposed Amendments to the Wells Regulation (Reg.903 under the Ontario Water Resources Act)
- 4/5/02 10:10:00 AM

3. "IA02E0315" Type of Posting: "Instrument" Status: "Proposal"
Hallman Eldercare Inc. Order for preventative measures.
- 4/11/02 2:31:00 PM

4. "IA02E0333" Type of Posting: "Instrument" Status: "Proposal"
Court Valve Company Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/9/02 8:22:00 AM

5. "IA02E0337" Type of Posting: "Instrument" Status: "Proposal"
Onward Multi-Corp. Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/9/02 12:42:00 PM

6. "IA02E0341" Type of Posting: "Instrument" Status: "Proposal"
Algonquin Power Corporation (Cordova) Inc. Permit to take water
- 5/9/02 2:14:00 PM

7. "IA02E0342" Type of Posting: "Instrument" Status: "Proposal"
Aberfoyle Springs Co. (A subsidiary of Nestle Canada Inc.) Permit to take water
- 5/9/02 2:52:00 PM

8. "IA02E0346" Type of Posting: "Instrument" Status: "Proposal"
KUS Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/13/02 8:54:00 AM

9. "IB02E3030" Type of Posting: "Instrument" Status: "Proposal"
Puslinch Quality Aggregates Ltd., Approval of licensee proposed amendment to a site plan
- 5/13/02 12:36:00 PM

10. "IA02E0350" Type of Posting: "Instrument" Status: "Proposal"
Teff Line Approval for discharge into the natural environment other than water (i.e. Air)
- 5/14/02 12:14:00 PM

11. "IA02E0354" Type of Posting: "Instrument" Status: "Proposal"
Mascotek Collision Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/15/02 7:42:00 AM

12. "IA02E0355" Type of Posting: "Instrument" Status: "Proposal"
Hymopack Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/15/02 7:42:00 AM

13. "IA02E0356" Type of Posting: "Instrument" Status: "Proposal"
Leggat Pontiac Buick Cadillac Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/15/02 7:42:00 AM

14. "IA02E0361" Type of Posting: "Instrument" Status: "Proposal"
Trillium Health Care Products Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/15/02 2:19:00 PM

15. "IA02E0359" Type of Posting: "Instrument" Status: "Proposal"
Amax Auto Repair Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/15/02 2:19:00 PM

16. "IA02E0362" Type of Posting: "Instrument" Status: "Proposal"
Prospec Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/15/02 2:20:00 PM

17. "IA02E0365" Type of Posting: "Instrument" Status: "Proposal"
1140276 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/16/02 12:13:00 PM

18. "IA02E0364" Type of Posting: "Instrument" Status: "Proposal"
Kleco Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 5/16/02 12:13:00 PM

19. "IT02E0005" Type of Posting: "Instrument" Status: "Proposal"
Service et Construction Mobile Ltee Application for variances from the Gasoline Handling Act
- 5/16/02 12:14:00 PM

20. "IT02E0004" Type of Posting: "Instrument" Status: "Proposal"
Petro Canada Application for variances from the Gasoline Handling Act
- 5/16/02 12:14:00 PM

21. "IA02E0367" Type of Posting: "Instrument" Status: "Proposal"
Imperial Oil Limited Approval for sewage works
- 5/16/02 1:35:00 PM

22. "IA02E0371" Type of Posting: "Instrument" Status: "Proposal"
Stanley Mechanics Tools Approval for discharge into the natural environment other than water (i.e. Air)
- 5/16/02 1:36:00 PM

23. "IA02E0370" Type of Posting: "Instrument" Status: "Proposal"
KS Centoco Wheel Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 5/16/02 1:36:00 PM

24. "IA02E0373" Type of Posting: "Instrument" Status: "Proposal"
Whitby Cogeneration Limited Partnership Approval for discharge into the natural environment other than water (i.e. Air)
- 5/16/02 2:11:00 PM

25. "IA02E0377" Type of Posting: "Instrument" Status: "Proposal"

Patriot Forge Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/17/02 8:34:00 AM

26. "IA02E0376" Type of Posting: "Instrument" Status: "Proposal"
Emerson Electric Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 5/17/02 8:34:00 AM

27. "IA02E0374" Type of Posting: "Instrument" Status: "Proposal"
Jango Auto Collision & Sales Approval for discharge into the natural environment other than water (i.e. Air)
- 5/17/02 8:34:00 AM

28. "IA02E0384" Type of Posting: "Instrument" Status: "Proposal"
Don Valley Volkswagen Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/17/02 1:21:00 PM

29. "IA02E0383" Type of Posting: "Instrument" Status: "Proposal"
Environmental Applied Research Technology House -Earth (Canada) Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 5/17/02 1:21:00 PM

30. "IA02E0381" Type of Posting: "Instrument" Status: "Proposal"
Canadian Development Mangement Corporation Permit to take water
- 5/17/02 1:21:00 PM

31. "IA02E0393" Type of Posting: "Instrument" Status: "Proposal"
1516357 Ontario Limited Approval for sewage works
- 5/21/02 8:01:00 AM

32. "IA02E0391" Type of Posting: "Instrument" Status: "Proposal"
Mister Restoration Approval for discharge into the natural environment other than water (i.e. Air)
- 5/21/02 8:01:00 AM

33. "IA02E0395" Type of Posting: "Instrument" Status: "Proposal"
Inglewood Village Estates Limited Approval for sewage works
- 5/21/02 8:01:00 AM

34. "IB02E3038" Type of Posting: "Instrument" Status: "Proposal"
Hygrade Aggregates Ltd., Approval of licensee proposed amendment to a site plan
- 5/21/02 11:37:00 AM

35. "IA02E0410" Type of Posting: "Instrument" Status: "Proposal"
Mr. L. Wanner Permit to take water
- 5/22/02 8:17:00 AM

36. "IA02E0409" Type of Posting: "Instrument" Status: "Proposal"
Bochek Fabricating Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 5/22/02 8:17:00 AM

37. "IA02E0408" Type of Posting: "Instrument" Status: "Proposal"

Satin Finish Hardwood FLooring Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 5/22/02 8:17:00 AM

38. "IA02E0403" Type of Posting: "Instrument" Status: "Proposal"
Bramhall Park Mobile Homes Ltd. Permit to take water
- 5/22/02 8:17:00 AM

39. "IA02E0413" Type of Posting: "Instrument" Status: "Proposal"
BI-AX International Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/22/02 2:09:00 PM

40. "IA02E0412" Type of Posting: "Instrument" Status: "Proposal"
Connell Industries Canada Company Approval for discharge into the natural environment other than water (i.e. Air)
- 5/22/02 2:09:00 PM

41. "IA02E0416" Type of Posting: "Instrument" Status: "Proposal"
Cooper-Standard Automotive Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 5/22/02 2:10:00 PM

42. "IA02E0415" Type of Posting: "Instrument" Status: "Proposal"
J. A. Laporte Flowers & Nursery Inc. Permit to take water
- 5/22/02 2:10:00 PM

43. "IA02E0425" Type of Posting: "Instrument" Status: "Proposal"
D & L Metals Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 5/23/02 9:33:00 AM

44. "IA02E0422" Type of Posting: "Instrument" Status: "Proposal"
Pemco Steel Sales Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 5/23/02 9:33:00 AM

45. "IA02E0432" Type of Posting: "Instrument" Status: "Proposal"
MTB Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/23/02 2:21:00 PM

46. "IB02E2001" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 5/23/02 2:21:00 PM

47. "IA02E0434" Type of Posting: "Instrument" Status: "Proposal"
Kosa Canada Company Approval for discharge into the natural environment other than water (i.e. Air)
- 5/24/02 10:31:00 AM

48. "IA02E0433" Type of Posting: "Instrument" Status: "Proposal"
Bertrand Construction L'Orignal Inc. Permit to take water
- 5/24/02 10:31:00 AM

49. "IA02E0436" Type of Posting: "Instrument" Status: "Proposal"
Bertrand Construction L'Orignal Inc. Permit to take water
- 5/24/02 2:01:00 PM

50. "PB9E6013" Type of Posting: "Policy" Status: "Proposal"
Class Environmental Assessment for Ontario's Provincial Parks and Conservation Reserves
- 5/24/02 2:01:00 PM

51. "IA02E0441" Type of Posting: "Instrument" Status: "Proposal"
1212814 Ontario Ltd. Order for preventative measures.
- 5/24/02 2:05:00 PM

52. "IF02E4005" Type of Posting: "Instrument" Status: "Proposal"
The Township of Atikokan Approval of an Official Plan
- 5/28/02 10:38:00 AM

53. "IA02E0442" Type of Posting: "Instrument" Status: "Proposal"
Aimco Solrec Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 5/28/02 11:10:00 AM

54. "IA02E0447" Type of Posting: "Instrument" Status: "Proposal"
Ontario Power Generation Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/28/02 11:10:00 AM

55. "IA02E0452" Type of Posting: "Instrument" Status: "Proposal"
Windsor Mold Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/28/02 11:11:00 AM

56. "IA02E0455" Type of Posting: "Instrument" Status: "Proposal"
Bertrand Construction L'Orignal Inc. Permit to take water
- 5/28/02 11:11:00 AM

57. "IA02E0458" Type of Posting: "Instrument" Status: "Proposal"
Twin Hills Ford Lincoln Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 5/28/02 1:49:00 PM

58. "IA02E0456" Type of Posting: "Instrument" Status: "Proposal"
Trimplas 2 Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/28/02 1:49:00 PM

59. "IA02E0457" Type of Posting: "Instrument" Status: "Proposal"
936941 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/28/02 1:49:00 PM

60. "IA02E0461" Type of Posting: "Instrument" Status: "Proposal"
The Northumberland Health Care Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 5/29/02 8:12:00 AM

61. "IA02E0463" Type of Posting: "Instrument" Status: "Proposal"
1350195 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 5/29/02 12:48:00 PM

62. "IA02E0467" Type of Posting: "Instrument" Status: "Proposal"

Zip Signs Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/29/02 12:48:00 PM

63. "IA02E0468" Type of Posting: "Instrument" Status: "Proposal"
McCain Foods Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 5/29/02 2:11:00 PM

64. "PA02E0007" Type of Posting: "Policy" Status: "Proposal"
Protocols for Updating Certificates of Approval for: Sewage Works; Water Works; Air Emissions; and Waste Management
- 5/30/02 7:48:48 AM

65. "IA02E0471" Type of Posting: "Instrument" Status: "Proposal"
West York Chevrolet Oldsmobile (1990) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/30/02 10:12:00 AM

66. "IA02E0479" Type of Posting: "Instrument" Status: "Proposal"
Fred's Auto Body Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/31/02 2:13:00 PM

67. "IA02E0485" Type of Posting: "Instrument" Status: "Proposal"
CFM Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 5/31/02 2:13:00 PM

68. "IA02E0477" Type of Posting: "Instrument" Status: "Proposal"
Cami Automotive Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/31/02 2:13:00 PM

69. "IA02E0472" Type of Posting: "Instrument" Status: "Proposal"
Concord Kitchens Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 5/31/02 2:13:00 PM

70. "IA02E0293" Type of Posting: "Instrument" Status: "Proposal"
Elmira Golf Club Permit to take water
- 5/31/02 2:13:00 PM

71. "IA02E0495" Type of Posting: "Instrument" Status: "Proposal"
1315041 Ontario Ltd. Permit to take water
- 6/3/02 10:40:00 AM

72. "IA02E0330" Type of Posting: "Instrument" Status: "Proposal"
Magna International Inc. Permit to take water
- 6/3/02 10:40:00 AM

73. "IA02E0500" Type of Posting: "Instrument" Status: "Proposal"
Crown Cork & Seal Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/3/02 2:14:00 PM

74. "IF02E2019" Type of Posting: "Instrument" Status: "Proposal"
Sudbury East Planning Board Approval of an Official Plan Amendment
- 6/3/02 2:15:00 PM

75. "IA02E0518" Type of Posting: "Instrument" Status: "Proposal"
Ontario Hardwood Veneers, Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/5/02 12:23:00 PM

76. "IA02E0516" Type of Posting: "Instrument" Status: "Proposal"
Ontario Concrete Products Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/5/02 12:23:00 PM

77. "IB02E3046" Type of Posting: "Instrument" Status: "Proposal"
Vineland Quarries and Crushed Stone Limited; Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 6/5/02 12:23:00 PM

78. "IA02E0522" Type of Posting: "Instrument" Status: "Proposal"
George Sechaver Welding & Fabrication (2000) Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/5/02 2:22:00 PM

79. "IB02E3047" Type of Posting: "Instrument" Status: "Proposal"
Niagara Escarpment Commission, Approval of an amendment to the Niagara Escarpment Plan
- 6/5/02 2:22:00 PM

80. "IA02E0533" Type of Posting: "Instrument" Status: "Proposal"
Peterson Spring of Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 6/6/02 10:38:00 AM

81. "IA02E0530" Type of Posting: "Instrument" Status: "Proposal"
Lyons Auto Body Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/6/02 10:38:00 AM

82. "IA02E0541" Type of Posting: "Instrument" Status: "Proposal"
Magna International Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/7/02 10:54:00 AM

83. "IA02E0545" Type of Posting: "Instrument" Status: "Proposal"
Nestle Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/10/02 9:13:00 AM

84. "IA02E0547" Type of Posting: "Instrument" Status: "Proposal"
1128850 Ontario Inc. Approval for a waste disposal site.
- 6/10/02 9:13:00 AM

85. "IA02E0548" Type of Posting: "Instrument" Status: "Proposal"
Tarandowah Golfers Club Permit to take water
- 6/10/02 9:13:00 AM

86. "RO01E1001" Type of Posting: "Regulation" Status: "Proposal"
Proposal to prescribe regulation-making authorities relating to environmental labelling, tracking, emission credits and emission standards as subject to Section 16 and Part IV of the EBR.
- 6/10/02 9:13:00 AM

87. "IA02E0552" Type of Posting: "Instrument" Status: "Proposal"
Boehmers Division of St. Lawrence Cement Approval for discharge into the natural environment other than water (i.e. Air)
- 6/10/02 2:19:00 PM

88. "IA02E0554" Type of Posting: "Instrument" Status: "Proposal"
Hydro One Network Services Incorporated Permit to take water
- 6/10/02 2:19:00 PM

89. "IA02E0555" Type of Posting: "Instrument" Status: "Proposal"
Alex Irvine Motors Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 6/12/02 9:04:00 AM

90. "IA02E0557" Type of Posting: "Instrument" Status: "Proposal"
Glen Mar Golf & Country Club Permit to take water
- 6/12/02 9:04:00 AM

91. "IA02E0564" Type of Posting: "Instrument" Status: "Proposal"
E. J. Hannafin Enterprises Limited Approval for sewage works
- 6/12/02 9:05:00 AM

92. "IA02E0563" Type of Posting: "Instrument" Status: "Proposal"
i-STAT Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 6/12/02 9:05:00 AM

93. "IA02E0562" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited, Kidd Metallurgical Division Permit to take water
- 6/12/02 9:05:00 AM

94. "IA02E0561" Type of Posting: "Instrument" Status: "Proposal"
Beaver Power Corporation Permit to take water
- 6/12/02 9:05:00 AM

95. "IA02E0575" Type of Posting: "Instrument" Status: "Proposal"
Foxpoint Resources Ltd. Permit to take water
- 6/12/02 9:05:00 AM

96. "IA02E0574" Type of Posting: "Instrument" Status: "Proposal"
PCI Chemicals Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/12/02 9:05:00 AM

97. "IA02E0573" Type of Posting: "Instrument" Status: "Proposal"
Searchmount Resort Inc. Permit to take water
- 6/12/02 9:05:00 AM

98. "IA02E0580" Type of Posting: "Instrument" Status: "Proposal"
Searchmont resort Inc. Permit to take water
- 6/12/02 9:05:00 AM

99. "IA02E0570" Type of Posting: "Instrument" Status: "Proposal"
Custom Aluminum Foundry Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 6/12/02 9:05:00 AM

100. "IA02E0578" Type of Posting: "Instrument" Status: "Proposal"
De Biasi International Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 6/12/02 9:05:00 AM

101. "IA02E0568" Type of Posting: "Instrument" Status: "Proposal"
Unilever Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 6/12/02 9:05:00 AM

102. "IA02E0584" Type of Posting: "Instrument" Status: "Proposal"
Peter R. Becker Permit to take water
- 6/13/02 7:37:00 AM

103. "IA02E0592" Type of Posting: "Instrument" Status: "Proposal"
Woodbine Pontiac Buick GMC Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/13/02 7:38:00 AM

104. "IA02E0589" Type of Posting: "Instrument" Status: "Proposal"
Poly-Nova Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/13/02 7:38:00 AM

105. "IA02E0581" Type of Posting: "Instrument" Status: "Proposal"
Erin Auto Collision Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/13/02 7:38:00 AM

106. "IA02E0595" Type of Posting: "Instrument" Status: "Proposal"
Cheryl Dawn Beaulieu Approval for discharge into the natural environment other than water (i.e. Air)
- 6/13/02 10:42:00 AM

107. "IA02E0599" Type of Posting: "Instrument" Status: "Proposal"
Pioneer Sportsmen Club Permit to take water
- 6/13/02 12:56:00 PM

108. "AB02E6001" Type of Posting: "Act" Status: "Proposal"
Amendments to the Lakes and Rivers Improvement Act to strengthen provisions so owners of waterpower facilities continue to operate their facilities in an environmentally responsible manner
- 6/13/02 12:57:00 PM

109. "IA02E0607" Type of Posting: "Instrument" Status: "Proposal"
Motor Coils Mfg. Co. (1981) Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/14/02 9:09:00 AM

110. "IA02E0616" Type of Posting: "Instrument" Status: "Proposal"
Boehmers Division of St. Lawrence Cement Approval for discharge into the natural environment other than water (i.e. Air)
- 6/17/02 7:24:00 AM

111. "IA02E0622" Type of Posting: "Instrument" Status: "Proposal"
Canamera Foods Approval for discharge into the natural environment other than water (i.e. Air)
- 6/17/02 2:08:00 PM

112. "IA02E0620" Type of Posting: "Instrument" Status: "Proposal"
Guelph Products Textron Approval for discharge into the natural environment other than water (i.e. Air)
- *6/17/02 2:08:00 PM*

113. "IA02E0619" Type of Posting: "Instrument" Status: "Proposal"
Starplex Scientific Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *6/17/02 2:08:00 PM*

114. "IA02E0629" Type of Posting: "Instrument" Status: "Proposal"
TCG Asphalt & Construction Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *6/18/02 12:34:00 PM*

115. "IA02E0625" Type of Posting: "Instrument" Status: "Proposal"
Lottridge Tire & Retreading Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *6/18/02 12:34:00 PM*

116. "IA02E0628" Type of Posting: "Instrument" Status: "Proposal"
Hydro Agri Canada L.P. Approval for discharge into the natural environment other than water (i.e. Air)
- *6/18/02 12:34:00 PM*

117. "IF02E2001" Type of Posting: "Instrument" Status: "Proposal"
The Town of Blind River Approval of an Official Plan Amendment
- *6/18/02 12:34:00 PM*

118. "PB02E6010" Type of Posting: "Policy" Status: "Proposal"
National Recovery Plan for the Red Mulberry
- *6/18/02 1:58:00 PM*

119. "IA02E0646" Type of Posting: "Instrument" Status: "Proposal"
A/D Fire Protection Systems Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *6/20/02 9:59:00 AM*

120. "IA02E0647" Type of Posting: "Instrument" Status: "Proposal"
Novaquest Finishing Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *6/20/02 9:59:00 AM*

121. "IA02E0645" Type of Posting: "Instrument" Status: "Proposal"
Crane Canada Co. Approval for discharge into the natural environment other than water (i.e. Air)
- *6/20/02 9:59:00 AM*

122. "IA02E0649" Type of Posting: "Instrument" Status: "Proposal"
ABC Automotive Products Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *6/21/02 10:34:00 AM*

123. "IA02E0654" Type of Posting: "Instrument" Status: "Proposal"
James Rumble Permit to take water
- *6/21/02 1:56:00 PM*

124. "PA02E0006" Type of Posting: "Policy" Status: "Proposal"

Proposal to revise the Canadian Drinking Water Guideline for Turbidity
 - 6/21/02 1:59:00 PM

125. "IA02E0656" Type of Posting: "Instrument" Status: "Proposal"
Tarandowah Golfers Club Permit to take water
 - 6/24/02 7:27:00 AM

126. "IA02E0668" Type of Posting: "Instrument" Status: "Proposal"
Royal Innovations Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 6/25/02 10:27:00 AM

127. "IA02E0664" Type of Posting: "Instrument" Status: "Proposal"
Port Colborne Country Club Permit to take water
 - 6/25/02 10:27:00 AM

128. "IA02E0667" Type of Posting: "Instrument" Status: "Proposal"
Nelson Aggregate Co. Permit to take water
 - 6/25/02 10:27:00 AM

129. "IA02E0670" Type of Posting: "Instrument" Status: "Proposal"
Tiercon Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 6/25/02 12:11:00 PM

130. "IA02E0678" Type of Posting: "Instrument" Status: "Proposal"
ITW Canada Holdings Company Approval for discharge into the natural environment other than water (i.e. Air)
 - 6/26/02 9:16:00 AM

131. "IA02E0677" Type of Posting: "Instrument" Status: "Proposal"
Michael Boyer Pontiac Buick GMC (1988) Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
 - 6/26/02 9:16:00 AM

132. "IA02E0676" Type of Posting: "Instrument" Status: "Proposal"
Andre Lalande Permit to take water
 - 6/26/02 9:16:00 AM

133. "IA02E0675" Type of Posting: "Instrument" Status: "Proposal"
Wescast Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 6/26/02 9:16:00 AM

134. "IA02E0673" Type of Posting: "Instrument" Status: "Proposal"
1166719 Ontario Limited Permit to take water
 - 6/26/02 9:16:00 AM

135. "RT02E0001" Type of Posting: "Regulation" Status: "Proposal"
Advisory - UNDERGROUND GALVANIZED PIPING SYSTEMS
 - 6/26/02 12:15:00 PM

136. "IA02E0680" Type of Posting: "Instrument" Status: "Proposal"
James Dick Construction Ltd. Permit to take water
 - 6/26/02 2:09:00 PM

137. "IA02E0695" Type of Posting: "Instrument" Status: "Proposal"

Hydropool-Aquatrainer Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/27/02 2:05:00 PM

138. "IA02E0694" Type of Posting: "Instrument" Status: "Proposal"
Larco Industrial Services Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/27/02 2:05:00 PM

139. "IA02E0689" Type of Posting: "Instrument" Status: "Proposal"
Langbridge Golf & Nursery Permit to take water
- 6/27/02 2:05:00 PM

140. "IA02E0686" Type of Posting: "Instrument" Status: "Proposal"
Andre Lalande Permit to take water
- 6/27/02 2:05:00 PM

141. "IA02E0685" Type of Posting: "Instrument" Status: "Proposal"
ONDEO Nalco Canada Co. Approval for discharge into the natural environment other than water (i.e. Air)
- 6/27/02 2:05:00 PM

142. "IA02E0707" Type of Posting: "Instrument" Status: "Proposal"
793335 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/2/02 10:06:00 AM

143. "IF02E4007" Type of Posting: "Instrument" Status: "Proposal"
City of Kenora Approval of an Official Plan Amendment
- 7/2/02 2:02:00 PM

144. "IA02E0711" Type of Posting: "Instrument" Status: "Proposal"
Ab Boogerman Permit to take water
- 7/2/02 2:02:00 PM

145. "IA02E0722" Type of Posting: "Instrument" Status: "Proposal"
Kromet International Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/3/02 2:17:00 PM

146. "IA02E0718" Type of Posting: "Instrument" Status: "Proposal"
Hetworth Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 7/3/02 2:17:00 PM

147. "IA02E0724" Type of Posting: "Instrument" Status: "Proposal"
Art of Time Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/3/02 2:17:00 PM

148. "IA02E0716" Type of Posting: "Instrument" Status: "Proposal"
Dawn De Cunha Permit to take water
- 7/3/02 2:17:00 PM

149. "IA02E0728" Type of Posting: "Instrument" Status: "Proposal"
Black & Decker Canada (1989) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/4/02 2:10:00 PM

150. "IA02E0730" Type of Posting: "Instrument" Status: "Proposal"

Deloro Stellite Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/5/02 12:52:00 PM

151. "IA02E0736" Type of Posting: "Instrument" Status: "Proposal"
Norceram Products Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/5/02 2:15:00 PM

152. "IA02E0738" Type of Posting: "Instrument" Status: "Proposal"
Prothane Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/8/02 6:59:00 AM

153. "IA02E0742" Type of Posting: "Instrument" Status: "Proposal"
M.J. Labelle Co. Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/8/02 1:15:00 PM

154. "IA02E0502" Type of Posting: "Instrument" Status: "Proposal"
Springfield Golf & Country Club Inc. Permit to take water
- 7/8/02 1:15:00 PM

155. "IA02E0747" Type of Posting: "Instrument" Status: "Proposal"
Seaforth Golf Course Permit to take water
- 7/9/02 9:04:00 AM

156. "IA02E0754" Type of Posting: "Instrument" Status: "Proposal"
Echo Bay Milling Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/9/02 2:14:00 PM

157. "IA02E0759" Type of Posting: "Instrument" Status: "Proposal"
Fisherman's Cove Tent and Trailer Park Ltd. Permit to take water
- 7/9/02 2:14:00 PM

158. "RB02E7001" Type of Posting: "Regulation" Status: "Proposal"
A regulation to provide for a process of public review of proposed amendments to the Forest Management Planning Manual, under the Crown Forest Sustainability Act.
- 7/9/02 2:14:00 PM

159. "IA02E0756" Type of Posting: "Instrument" Status: "Proposal"
Hydro One Network Services Incorporated Permit to take water
- 7/9/02 2:14:00 PM

160. "IA02E0765" Type of Posting: "Instrument" Status: "Proposal"
DEG Environmental Ltd. Approval for a waste disposal site.
- 7/10/02 10:37:00 AM

161. "IA02E0766" Type of Posting: "Instrument" Status: "Proposal"
TRW Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/10/02 10:37:00 AM

162. "PB00E6012" Type of Posting: "Policy" Status: "Proposal"
Fish-Community Objectives for the St. Lawrence River
- 7/10/02 10:37:00 AM

163. "IA02E0769" Type of Posting: "Instrument" Status: "Proposal"

Olympic Coaters Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/10/02 2:07:00 PM

164. "IA02E0772" Type of Posting: "Instrument" Status: "Proposal"
Western Collision Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/11/02 8:08:00 AM

165. "IA02E0773" Type of Posting: "Instrument" Status: "Proposal"
Lepage Approval for discharge into the natural environment other than water (i.e. Air)
- 7/11/02 8:08:00 AM

166. "IA02E0775" Type of Posting: "Instrument" Status: "Proposal"
London Health Sciences Centre Approval for discharge into the natural environment other than water (i.e. Air)
- 7/11/02 2:51:00 PM

167. "IA02E0779" Type of Posting: "Instrument" Status: "Proposal"
Clearwater Market Inc. Approval for a waste disposal site.
- 7/12/02 12:38:00 PM

168. "IA02E0776" Type of Posting: "Instrument" Status: "Proposal"
Triangle Pump Service Ltd. Approval for a waste disposal site.
- 7/12/02 12:38:00 PM

169. "IA02E0789" Type of Posting: "Instrument" Status: "Proposal"
The Guelph Country Club Ltd. Permit to take water
- 7/16/02 1:53:00 PM

170. "IB02E3052" Type of Posting: "Instrument" Status: "Proposal"
Cedarwell Excavating Ltd., Approval of licensee proposed amendment to a site plan
- 7/16/02 1:53:00 PM

171. "IA02E0791" Type of Posting: "Instrument" Status: "Proposal"
Creekside Land Corporation Permit to take water
- 7/16/02 1:53:00 PM

172. "ID02E1009" Type of Posting: "Instrument" Status: "Proposal"
Cantera Mining Limited Certified amendments as filed by a proponent or ordered by a Director
- 7/16/02 1:53:00 PM

173. "IA02E0800" Type of Posting: "Instrument" Status: "Proposal"
398640 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/17/02 12:24:00 PM

174. "IA02E0799" Type of Posting: "Instrument" Status: "Proposal"
AKS Auto Body Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/17/02 12:24:00 PM

175. "IA02E0798" Type of Posting: "Instrument" Status: "Proposal"
Taylor Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 7/17/02 12:24:00 PM

176. "IA02E0795" Type of Posting: "Instrument" Status: "Proposal"

Elk Lake Planing Mill Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/17/02 12:24:00 PM

177. "IA02E0790" Type of Posting: "Instrument" Status: "Proposal"
Elk Lake Planing Mill Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/17/02 12:24:00 PM

178. "IA02E0794" Type of Posting: "Instrument" Status: "Proposal"
Booth's Harbour Developments Limited Permit to take water
- 7/17/02 12:24:00 PM

179. "IA02E0681" Type of Posting: "Instrument" Status: "Proposal"
The Cherry Hill Club Permit to take water
- 7/17/02 2:10:00 PM

180. "IA02E0802" Type of Posting: "Instrument" Status: "Proposal"
Schlegel Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/18/02 2:16:00 PM

181. "IA02E0804" Type of Posting: "Instrument" Status: "Proposal"
Murray and Dianne Spencer Permit to take water
- 7/18/02 2:16:00 PM

182. "IB02E3053" Type of Posting: "Instrument" Status: "Proposal"
Ralph Macdonald Construction & Aggregates Ltd., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 7/18/02 2:16:00 PM

183. "IF02E5007" Type of Posting: "Instrument" Status: "Proposal"
The City of Cornwall Approval of an Official Plan
- 7/18/02 2:16:00 PM

184. "IA02E0811" Type of Posting: "Instrument" Status: "Proposal"
Greif Bros. Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/19/02 9:32:00 AM

185. "IA02E0816" Type of Posting: "Instrument" Status: "Proposal"
Depco International Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/19/02 2:34:00 PM

186. "IF02E2021" Type of Posting: "Instrument" Status: "Proposal"
The Town of Iroquois Falls Approval of an Official Plan Amendment
- 7/19/02 2:34:00 PM

187. "IA02E0820" Type of Posting: "Instrument" Status: "Proposal"
1455122 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/22/02 2:11:00 PM

188. "IA02E0826" Type of Posting: "Instrument" Status: "Proposal"
G. Tackaberry & Sons. Constr. Co. Ltd. Permit to take water
- 7/22/02 2:11:00 PM

189. "IA02E0824" Type of Posting: "Instrument" Status: "Proposal"
Black & McDonald Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/22/02 2:11:00 PM

190. "IA02E0819" Type of Posting: "Instrument" Status: "Proposal"
James Ross Boulton Approval for a waste disposal site.
- 7/22/02 2:11:00 PM

191. "IA02E0822" Type of Posting: "Instrument" Status: "Proposal"
3M Canada Company Approval for discharge into the natural environment other than water (i.e. Air)
- 7/22/02 2:11:00 PM

192. "IA02E0821" Type of Posting: "Instrument" Status: "Proposal"
BASF Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/22/02 2:11:00 PM

193. "IA02E0817" Type of Posting: "Instrument" Status: "Proposal"
Hemosol Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/22/02 2:11:00 PM

194. "IA02E0827" Type of Posting: "Instrument" Status: "Proposal"
Norlok Technology Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/23/02 9:20:00 AM

195. "IA02E0830" Type of Posting: "Instrument" Status: "Proposal"
Metcor Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/23/02 9:21:00 AM

196. "IA02E0829" Type of Posting: "Instrument" Status: "Proposal"
Unique Auto Collision Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/23/02 9:21:00 AM

197. "IA02E0828" Type of Posting: "Instrument" Status: "Proposal"
Ducks Unlimited Canada Permit to take water
- 7/23/02 9:21:00 AM

198. "IA02E0832" Type of Posting: "Instrument" Status: "Proposal"
Greenflow Environmental Services Incorporated Approval for a waste disposal site.
- 7/24/02 10:58:00 AM

199. "IA02E0833" Type of Posting: "Instrument" Status: "Proposal"
Brethren of Early Christianity Permit to take water
- 7/24/02 10:58:00 AM

200. "IA02E0842" Type of Posting: "Instrument" Status: "Proposal"
Sherkston Shores Permit to take water
- 7/24/02 10:59:00 AM

201. "IA02E0841" Type of Posting: "Instrument" Status: "Proposal"
Four Seasons Family Nudist Resort Permit to take water
- 7/24/02 10:59:00 AM

202. "IA02E0840" Type of Posting: "Instrument" Status: "Proposal"

Majestic Collision Centre Approval for discharge into the natural environment other than water (i.e. Air)
- *7/24/02 10:59:00 AM*

203. "IA02E0835" Type of Posting: "Instrument" Status: "Proposal"
Ducks Unlimited Canada Permit to take water
- *7/24/02 10:59:00 AM*

204. "IA02E0836" Type of Posting: "Instrument" Status: "Proposal"
JWS Manufacturing Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *7/24/02 10:59:00 AM*

205. "IA02E0839" Type of Posting: "Instrument" Status: "Proposal"
Genpharm Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *7/24/02 10:59:00 AM*

206. "IA02E0838" Type of Posting: "Instrument" Status: "Proposal"
Body Blue Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *7/24/02 10:59:00 AM*

207. "IB02E3054" Type of Posting: "Instrument" Status: "Proposal"
Theo Willems, Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- *7/25/02 2:32:00 PM*

208. "IA02E0849" Type of Posting: "Instrument" Status: "Proposal"
Brock Golfland Ltd. Permit to take water
- *7/26/02 7:12:00 AM*

209. "IA02E0857" Type of Posting: "Instrument" Status: "Proposal"
Cumberland Ready Mix Ltd. Permit to take water
- *7/26/02 2:19:00 PM*

210. "IA02E0856" Type of Posting: "Instrument" Status: "Proposal"
Allard's Paint & Body Shop Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- *7/26/02 2:19:00 PM*

211. "IA02E0858" Type of Posting: "Instrument" Status: "Proposal"
Cumberland Ready Mix Ltd. Permit to take water
- *7/26/02 2:19:00 PM*

212. "IA02E0865" Type of Posting: "Instrument" Status: "Proposal"
John MacDonald and Whitetail Golf Club Permit to take water
- *7/26/02 2:19:00 PM*

213. "IA02E0867" Type of Posting: "Instrument" Status: "Proposal"
2R Services Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *7/29/02 2:41:00 PM*

214. "IF02E5008" Type of Posting: "Instrument" Status: "Proposal"
The County of Renfrew Approval of an Official Plan
- *7/29/02 2:41:00 PM*

215. "IA02E0875" Type of Posting: "Instrument" Status: "Proposal"

301717 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 7/30/02 9:24:00 AM

216. "IA02E0877" Type of Posting: "Instrument" Status: "Proposal"
Brullen Exhaust Systems Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/30/02 1:55:00 PM

217. "IA02E0876" Type of Posting: "Instrument" Status: "Proposal"
Forbes Motors Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/30/02 1:55:00 PM

218. "IA02E0660" Type of Posting: "Instrument" Status: "Proposal"
Forwell Limited Permit to take water
- 7/30/02 1:55:00 PM

219. "IA02E0690" Type of Posting: "Instrument" Status: "Proposal"
Fermar Crushing & Recycling Ltd. Permit to take water
- 7/30/02 1:56:00 PM

220. "IA02E0687" Type of Posting: "Instrument" Status: "Proposal"
Ernest Howard Permit to take water
- 7/30/02 1:56:00 PM

221. "IA02E0683" Type of Posting: "Instrument" Status: "Proposal"
Glendale Golf and Country Club Permit to take water
- 7/30/02 1:56:00 PM

222. "IA02E0883" Type of Posting: "Instrument" Status: "Proposal"
Original Collision Centre Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 7/31/02 10:42:00 AM

223. "IA02E0885" Type of Posting: "Instrument" Status: "Proposal"
Flex - N - Gate Canada Company Approval for discharge into the natural environment other than water (i.e. Air)
- 7/31/02 2:06:00 PM

224. "IA02E0888" Type of Posting: "Instrument" Status: "Proposal"
Bryan Van Den Bosch Permit to take water
- 7/31/02 2:07:00 PM

225. "IA02E0895" Type of Posting: "Instrument" Status: "Proposal"
Novopharm Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 8/2/02 12:59:00 PM

226. "IA02E0898" Type of Posting: "Instrument" Status: "Proposal"
Truck Realty, LP Approval for a waste disposal site.
- 8/2/02 12:59:00 PM

227. "IA02E0900" Type of Posting: "Instrument" Status: "Proposal"
Sandvik Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/2/02 1:00:00 PM

228. "IA02E0902" Type of Posting: "Instrument" Status: "Proposal"
Century Wood Products Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/2/02 2:06:00 PM

229. "IA02E0904" Type of Posting: "Instrument" Status: "Proposal"
1253621 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/6/02 9:01:00 AM

230. "IA02E0903" Type of Posting: "Instrument" Status: "Proposal"
Centerline (Windsor) Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 8/6/02 9:01:00 AM

231. "IA02E0905" Type of Posting: "Instrument" Status: "Proposal"
Ultramar Ltd. Approval for sewage works
- 8/6/02 9:01:00 AM

232. "IA02E0907" Type of Posting: "Instrument" Status: "Proposal"
Kenneth John Osborn Approval for discharge into the natural environment other than water (i.e. Air)
- 8/6/02 1:46:00 PM

233. "IA02E0914" Type of Posting: "Instrument" Status: "Proposal"
Josh and Kelly Canning Permit to take water
- 8/6/02 1:46:00 PM

234. "IA02E0913" Type of Posting: "Instrument" Status: "Proposal"
Horton Spice Mills Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/6/02 1:47:00 PM

235. "IA02E0615" Type of Posting: "Instrument" Status: "Proposal"
Wescast Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/6/02 1:47:00 PM

236. "IA02E0925" Type of Posting: "Instrument" Status: "Proposal"
Oaks Golf and Country Club Permit to take water
- 8/7/02 12:48:00 PM

237. "IA02E0920" Type of Posting: "Instrument" Status: "Proposal"
Canadian Technical Tape Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/7/02 12:48:00 PM

238. "IA02E0919" Type of Posting: "Instrument" Status: "Proposal"
Mississagi Power Trust Permit to take water
- 8/7/02 12:48:00 PM

239. "IA02E0918" Type of Posting: "Instrument" Status: "Proposal"
Mississagi Power Trust Permit to take water
- 8/7/02 12:48:00 PM

240. "IA02E0917" Type of Posting: "Instrument" Status: "Proposal"
Mississagi Power Trust Permit to take water
- 8/7/02 12:48:00 PM

241. "IA02E0915" Type of Posting: "Instrument" Status: "Proposal"
Wescast Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/7/02 12:48:00 PM

242. "IA02E0916" Type of Posting: "Instrument" Status: "Proposal"
Mississagi Power Trust Permit to take water
- 8/7/02 12:48:00 PM

243. "IA02E0893" Type of Posting: "Instrument" Status: "Proposal"
Long Manufacturing Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/7/02 12:48:00 PM

244. "IA02E0922" Type of Posting: "Instrument" Status: "Proposal"
Allard's Paint & Body Shop Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/7/02 12:48:00 PM
245. "IA02E0932" Type of Posting: "Instrument" Status: "Proposal"
Telephone City Aggregates Inc. Permit to take water
- 8/8/02 12:27:00 PM

246. "IA02E0931" Type of Posting: "Instrument" Status: "Proposal"
Paris Grand Golf Club Permit to take water
- 8/8/02 12:27:00 PM

247. "IA02E0060" Type of Posting: "Instrument" Status: "Proposal"
Weyerhaeuser Company Limited - Ear Falls Sawmill Approval for discharge into the natural environment other than water (i.e. Air)
- 8/8/02 12:27:00 PM

248. "IA02E0935" Type of Posting: "Instrument" Status: "Proposal"
Recreational Adventures Inc. Permit to take water
- 8/8/02 1:56:00 PM

249. "IA02E0934" Type of Posting: "Instrument" Status: "Proposal"
Brake Parts Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/8/02 1:56:00 PM

250. "IA02E0940" Type of Posting: "Instrument" Status: "Proposal"
Cosma International Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/9/02 12:59:00 PM

251. "IA02E0939" Type of Posting: "Instrument" Status: "Proposal"
Nichols Gravel Limited Permit to take water
- 8/9/02 12:59:00 PM

252. "IA02E0943" Type of Posting: "Instrument" Status: "Proposal"
Lafleche Environment Inc. Approval for sewage works
- 8/13/02 9:21:00 AM

253. "IA02E0946" Type of Posting: "Instrument" Status: "Proposal"
Shelley Breedon Permit to take water
- 8/13/02 9:21:00 AM

254. "IA02E0949" Type of Posting: "Instrument" Status: "Proposal"

Gay Lea Foods Co-Operative Limited Approval for a waste disposal site.
- 8/13/02 1:59:00 PM

255. "PB02E1002" Type of Posting: "Policy" Status: "Proposal"
Proposed Guidelines for Commercial Harvesting of Lake Herring for Bait in the Northwest Region
- 8/13/02 2:13:00 PM

256. "IF02E9011" Type of Posting: "Instrument" Status: "Proposal"
South Glengarry Approval of an Official Plan Amendment
- 8/14/02 2:05:00 PM

257. "IF02E9012" Type of Posting: "Instrument" Status: "Proposal"
Township of Laurentian Valley Approval of an Official Plan
- 8/14/02 2:05:00 PM

258. "IA02E0950" Type of Posting: "Instrument" Status: "Proposal"
Airboss of America Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/14/02 2:05:00 PM

259. "IA02E0952" Type of Posting: "Instrument" Status: "Proposal"
Militex Coatings Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/14/02 2:05:00 PM

260. "PD02E1001" Type of Posting: "Policy" Status: "Proposal"
Provincially Significant Mineral Potential Procedural Manual for Ontario
- 8/16/02 9:10:00 AM

261. "IA02E0957" Type of Posting: "Instrument" Status: "Proposal"
K.T.R.S. Truck Painting Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/16/02 12:40:00 PM

262. "IA02E0956" Type of Posting: "Instrument" Status: "Proposal"
Ottawa Motor Sales (1987) Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 8/16/02 12:40:00 PM

263. "IA02E0958" Type of Posting: "Instrument" Status: "Proposal"
Sachigo Lake First Nation Approval for a waste disposal site.
- 8/16/02 12:40:00 PM

264. "IA02E0960" Type of Posting: "Instrument" Status: "Proposal"
Advanced Business Interiors Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/19/02 2:48:00 PM

265. "IA02E0965" Type of Posting: "Instrument" Status: "Proposal"
Gay Lea Foods Co-Operative Limited Approval for a waste disposal site.
- 8/19/02 3:45:00 PM

266. "IA02E0971" Type of Posting: "Instrument" Status: "Proposal"
Tesma International Inc. o/a Pullmatic Manufacturing Approval for discharge into the natural environment other than water (i.e. Air)
- 8/20/02 12:55:00 PM

267. "IF02E3009" Type of Posting: "Instrument" Status: "Proposal"
County of Brant, Approval of an Official Plan Amendment
- 8/20/02 12:55:00 PM

268. "IF02E3010" Type of Posting: "Instrument" Status: "Proposal"
County of Brant, Approval of an Official Plan Amendment
- 8/20/02 12:55:00 PM

269. "IB02E3057" Type of Posting: "Instrument" Status: "Proposal"
The Glen Aggregates, Add, rescind, or vary a condition of a licence
- 8/20/02 12:55:00 PM

270. "RC02E0001" Type of Posting: "Regulation" Status: "Proposal"
Stage 1 Draft Nutrient Management Regulations under the Nutrient Management Act
- 8/20/02 2:41:00 PM

271. "IA02E0978" Type of Posting: "Instrument" Status: "Proposal"
Janet Alice Holmes Order for remedial work.
- 8/20/02 4:25:00 PM

272. "IA02E0977" Type of Posting: "Instrument" Status: "Proposal"
Richard Freeman Holmes Order for remedial work.
- 8/20/02 4:25:00 PM

273. "IA02E0975" Type of Posting: "Instrument" Status: "Proposal"
Donna Gail Lecot Order for remedial work.
- 8/20/02 4:25:00 PM

274. "IA02E0973" Type of Posting: "Instrument" Status: "Proposal"
Albert Raoul Lecot Order for remedial work.
- 8/20/02 4:25:00 PM

275. "IA02E0974" Type of Posting: "Instrument" Status: "Proposal"
418579 Ontario Limited Order for remedial work.
- 8/20/02 4:25:00 PM

276. "IA02E0936" Type of Posting: "Instrument" Status: "Proposal"
St. John's-Kilmarnock School Permit to take water
- 8/20/02 4:25:00 PM

277. "IA02E0976" Type of Posting: "Instrument" Status: "Proposal"
Dick Holmes Limited Order for remedial work.
- 8/20/02 4:25:00 PM

278. "IB02E2005" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited, Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 8/21/02 3:46:00 PM

279. "IB02E2004" Type of Posting: "Instrument" Status: "Proposal"
Temagami Forest Products Ltd., Issuance of a forest resource processing facility licence
- 8/21/02 3:46:00 PM

280. "IA02E0987" Type of Posting: "Instrument" Status: "Proposal"

1200749 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 8/22/02 8:40:00 AM

281. "IA02E0983" Type of Posting: "Instrument" Status: "Proposal"
Tenneco Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 8/22/02 8:40:00 AM

282. "IA02E0982" Type of Posting: "Instrument" Status: "Proposal"
CFM Majestic Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 8/22/02 8:40:00 AM

283. "PB01E1013" Type of Posting: "Policy" Status: "Proposal"
Ruby Lake Provincial Park Management Plan
 - 8/22/02 10:30:00 AM

284. "IA02E0999" Type of Posting: "Instrument" Status: "Proposal"
Imperial Oil (formerly ESSO Petroleum Canada) Permit to take water
 - 8/22/02 3:20:00 PM

285. "IB02E3059" Type of Posting: "Instrument" Status: "Proposal"
J. A. Porter Holdings (Lucknow) Ltd., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
 - 8/22/02 3:20:00 PM

286. "IA02E0997" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc. Permit to take water
 - 8/22/02 3:20:00 PM

287. "IA02E0994" Type of Posting: "Instrument" Status: "Proposal"
Electrohome Limited Approval for discharge into the natural environment other than water (i.e. Air)
 - 8/22/02 3:20:00 PM

288. "IA02E0991" Type of Posting: "Instrument" Status: "Proposal"
Port Colborne Poultry Ltd. Permit to take water
 - 8/22/02 3:20:00 PM

289. "IA02E0992" Type of Posting: "Instrument" Status: "Proposal"
Washington Mills Limited. Permit to take water
 - 8/22/02 3:20:00 PM

290. "IA02E0996" Type of Posting: "Instrument" Status: "Proposal"
The Cheese Factory Rd. Golf Course Inc. c/o Savannah Golf Links Permit to take water
 - 8/22/02 3:20:00 PM

291. "IA02E0995" Type of Posting: "Instrument" Status: "Proposal"
Niagara Peninsula Conservation Authority per Greg O'Rourke Permit to take water
 - 8/22/02 3:20:00 PM

292. "IA02E0993" Type of Posting: "Instrument" Status: "Proposal"
Flamborough Valley RV Park and Campground Permit to take water
 - 8/22/02 3:20:00 PM

293. "IA02E1001" Type of Posting: "Instrument" Status: "Proposal"

New Tata Auto Body Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/23/02 10:23:00 AM

294. "IF02E5009" Type of Posting: "Instrument" Status: "Proposal"
The Township of Frontenac Islands Approval of an Official Plan
- 8/23/02 2:41:00 PM

295. "IA02E1000" Type of Posting: "Instrument" Status: "Proposal"
Barcovan Golf Club Ltd. Permit to take water
- 8/26/02 7:33:00 AM

296. "IA02E1013" Type of Posting: "Instrument" Status: "Proposal"
Intertec Systems Approval for discharge into the natural environment other than water (i.e. Air)
- 8/26/02 12:16:00 PM

297. "IT02E0009" Type of Posting: "Instrument" Status: "Proposal"
Meyers Transport Ltd. Application for variances from the TSS Act, LFH Reg. 217/01
- 8/26/02 12:16:00 PM

298. "IA02E1011" Type of Posting: "Instrument" Status: "Proposal"
DGS Developments (aka The Greens at Renton) Permit to take water
- 8/26/02 12:16:00 PM

299. "IA02E1012" Type of Posting: "Instrument" Status: "Proposal"
Canusa-CPS, a division of Shaw Industries Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/26/02 12:16:00 PM

300. "IA02E1017" Type of Posting: "Instrument" Status: "Proposal"
Camp Arowhon Limited Permit to take water
- 8/27/02 8:08:00 AM

301. "IA02E1016" Type of Posting: "Instrument" Status: "Proposal"
First Professional Management (L'Chaim Shopping Centres Limited) Permit to take water
- 8/27/02 8:08:00 AM

302. "IA02E1018" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc. Permit to take water
- 8/27/02 8:08:00 AM

303. "IA02E1024" Type of Posting: "Instrument" Status: "Proposal"
Decoma Exterior Trim Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/27/02 2:03:00 PM

304. "IA02E1026" Type of Posting: "Instrument" Status: "Proposal"
1216809 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 8/27/02 2:03:00 PM

305. "IA02E1021" Type of Posting: "Instrument" Status: "Proposal"
Jim Tubman Motors Approval for discharge into the natural environment other than water (i.e. Air)
- 8/27/02 2:03:00 PM

306. "IA02E1037" Type of Posting: "Instrument" Status: "Proposal"

Dana Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/29/02 2:04:00 PM

307. "IA02E1039" Type of Posting: "Instrument" Status: "Proposal"
Innergex Permit to take water
- 8/29/02 2:04:00 PM

308. "IA02E1038" Type of Posting: "Instrument" Status: "Proposal"
Innergex Permit to take water
- 8/29/02 2:04:00 PM

309. "IA02E1033" Type of Posting: "Instrument" Status: "Proposal"
International Paper Canada Inc./Papier International Du Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/29/02 2:04:00 PM

310. "IA02E1031" Type of Posting: "Instrument" Status: "Proposal"
Canadian Timken Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 8/29/02 2:04:00 PM

311. "IA02E1032" Type of Posting: "Instrument" Status: "Proposal"
Applied Physics Specialities Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 8/29/02 2:04:00 PM

312. "IA02E1043" Type of Posting: "Instrument" Status: "Proposal"
Nirupam Singh Approval for discharge into the natural environment other than water (i.e. Air)
- 8/30/02 10:47:00 AM

313. "IA02E1040" Type of Posting: "Instrument" Status: "Proposal"
Pakenham Highlands Golf Course Permit to take water
- 8/30/02 10:47:00 AM

314. "IA02E1042" Type of Posting: "Instrument" Status: "Proposal"
Selectone Paints Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 8/30/02 10:47:00 AM

315. "IA02E1047" Type of Posting: "Instrument" Status: "Proposal"
Nemak of Canada Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 9/4/02 2:50:00 PM

316. "IF02E0003" Type of Posting: "Instrument" Status: "Proposal"
The Corporation of the Township of Mulmur Approval of an Official Plan Amendment
- 9/4/02 2:50:00 PM

317. "IA02E1051" Type of Posting: "Instrument" Status: "Proposal"
Textron Canada Limited- Textron Automotive Interiors Division Approval for discharge into the natural environment other than water (i.e. Air)
- 9/6/02 8:05:00 AM

318. "IA02E1048" Type of Posting: "Instrument" Status: "Proposal"

Guelph Utility Pole Company Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/6/02 8:05:00 AM

319. "IA02E1050" Type of Posting: "Instrument" Status: "Proposal"
PXL Polyair Cross Linked Foam Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 9/6/02 8:05:00 AM

320. "IA02E1053" Type of Posting: "Instrument" Status: "Proposal"
Mancuso Chemicals Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 9/6/02 1:44:00 PM

321. "IF02E2025" Type of Posting: "Instrument" Status: "Proposal"
The Township of Moonbeam Approval of an Official Plan Amendment
- 9/9/02 12:59:00 PM

322. "IA02E1061" Type of Posting: "Instrument" Status: "Proposal"
E.M.A. Millwork Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/9/02 12:59:00 PM

323. "IA02E1062" Type of Posting: "Instrument" Status: "Proposal"
Teff Line Approval for discharge into the natural environment other than water (i.e. Air)
- 9/9/02 12:59:00 PM

324. "IA02E1063" Type of Posting: "Instrument" Status: "Proposal"
Petro-Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 9/9/02 12:59:00 PM

325. "IA02E1060" Type of Posting: "Instrument" Status: "Proposal"
Petro-Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 9/9/02 12:59:00 PM

326. "IA02E1066" Type of Posting: "Instrument" Status: "Proposal"
John Thurston Machine Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 9/10/02 12:01:00 PM

327. "IA02E1071" Type of Posting: "Instrument" Status: "Proposal"
McLaren Morris and Todd Company Approval for discharge into the natural environment other than water (i.e. Air)
- 9/11/02 9:28:00 AM

328. "IA02E1074" Type of Posting: "Instrument" Status: "Proposal"
Claude Rundle Gold Mine Inc. Approval for sewage works
- 9/11/02 9:29:00 AM

329. "IA02E1085" Type of Posting: "Instrument" Status: "Proposal"
Kinshofer Liftall Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/12/02 9:04:00 AM

330. "IA02E1084" Type of Posting: "Instrument" Status: "Proposal"
H.P. Polymers Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/12/02 9:04:00 AM

331. "IA02E1083" Type of Posting: "Instrument" Status: "Proposal"
1137631 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/12/02 9:04:00 AM

332. "IA02E1078" Type of Posting: "Instrument" Status: "Proposal"
I.G. Machining & Fibres Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/12/02 9:04:00 AM

333. "IA02E1082" Type of Posting: "Instrument" Status: "Proposal"
AES Kingston Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/12/02 9:04:00 AM

334. "IA02E1081" Type of Posting: "Instrument" Status: "Proposal"
Tom Dunlop Permit to take water
- 9/12/02 9:04:00 AM

335. "IA02E1080" Type of Posting: "Instrument" Status: "Proposal"
Spartan Plastics Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/12/02 9:04:00 AM

336. "IA02E1075" Type of Posting: "Instrument" Status: "Proposal"
Aitec Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/12/02 9:04:00 AM

337. "IA02E1087" Type of Posting: "Instrument" Status: "Proposal"
Dawn De Cunha Permit to take water
- 9/12/02 1:48:00 PM

338. "RB02E1003" Type of Posting: "Regulation" Status: "Proposal"
New deer hunting seasons in Wildlife Management Units 3, 15A and 15B in northwestern Ontario
- 9/16/02 2:10:00 PM

339. "IA00E1778" Type of Posting: "Instrument" Status: "Proposal"
Bluewater Fibre Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/16/02 2:10:00 PM

340. "IA02E1089" Type of Posting: "Instrument" Status: "Proposal"
Husky Injection Molding Systems Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/17/02 9:36:00 AM

341. "IA02E1091" Type of Posting: "Instrument" Status: "Proposal"
Philip Services Inc. Approval for a waste disposal site.
- 9/17/02 9:36:00 AM

342. "IA02E1098" Type of Posting: "Instrument" Status: "Proposal"
Maureen Macartney Permit to take water
- 9/17/02 10:01:00 AM

343. "IA02E1100" Type of Posting: "Instrument" Status: "Proposal"

Century Truss Company Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 9/17/02 10:01:00 AM

344. "IA02E1095" Type of Posting: "Instrument" Status: "Proposal"
Orlick Industries Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 9/17/02 10:01:00 AM

345. "IA02E1096" Type of Posting: "Instrument" Status: "Proposal"
Eagle Stone 56 Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 9/17/02 10:01:00 AM

346. "IA02E1093" Type of Posting: "Instrument" Status: "Proposal"
Smurfit-Stone Container Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/17/02 10:01:00 AM

347. "IA02E1107" Type of Posting: "Instrument" Status: "Proposal"
Ontrac Equipment Services Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/18/02 7:03:00 AM

348. "IA02E1019" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc Permit to take water
- 9/18/02 7:03:00 AM

349. "IA02E1115" Type of Posting: "Instrument" Status: "Proposal"
Halla Climate Control Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/18/02 10:34:00 AM

350. "IA02E1110" Type of Posting: "Instrument" Status: "Proposal"
Novopharm Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 9/18/02 10:34:00 AM

351. "PB01E2001" Type of Posting: "Policy" Status: "Proposal"
Mashkinonje Provincial Park Management Plan
- 9/18/02 10:34:00 AM

352. "IA02E1117" Type of Posting: "Instrument" Status: "Proposal"
Douglas L. MacDonald Approval for discharge into the natural environment other than water (i.e. Air)
- 9/18/02 2:45:00 PM

353. "IA02E1120" Type of Posting: "Instrument" Status: "Proposal"
St. Marys Cement Inc. (Canada) Approval for discharge into the natural environment other than water (i.e. Air)
- 9/18/02 2:45:00 PM

354. "IA02E1119" Type of Posting: "Instrument" Status: "Proposal"
Jerry's Auto Body (Beamsville) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/18/02 2:45:00 PM

355. "IA02E1116" Type of Posting: "Instrument" Status: "Proposal"

Robert Kenline Permit to take water
 - 9/18/02 2:45:00 PM

356. "IA02E1122" Type of Posting: "Instrument" Status: "Proposal"
St. Marys Cement Inc. (Canada) Approval for discharge into the natural environment other than water (i.e. Air)
 - 9/19/02 8:09:00 AM

357. "IA02E1124" Type of Posting: "Instrument" Status: "Proposal"
Meridian Automotive Systems Approval for discharge into the natural environment other than water (i.e. Air)
 - 9/19/02 8:10:00 AM

358. "IA02E1127" Type of Posting: "Instrument" Status: "Proposal"
Birchmount Collision (1995) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 9/19/02 2:30:00 PM

359. "IA02E1130" Type of Posting: "Instrument" Status: "Proposal"
Howmet Aluminum Casting Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
 - 9/19/02 2:30:00 PM

360. "IA02E1126" Type of Posting: "Instrument" Status: "Proposal"
Shorewood Packaging Permit to take water
 - 9/19/02 2:30:00 PM

361. "IA02E1125" Type of Posting: "Instrument" Status: "Proposal"
St. Marys Cement Inc. (Canada) Approval for discharge into the natural environment other than water (i.e. Air)
 - 9/19/02 2:30:00 PM

362. "IA02E1137" Type of Posting: "Instrument" Status: "Proposal"
Georgian Aggregates & Construction Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 9/20/02 10:30:00 AM

363. "IB02E3064" Type of Posting: "Instrument" Status: "Proposal"
Dufferin Aggregates, A division of St. Lawrence Cement Inc., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
 - 9/20/02 10:30:00 AM

364. "IB02E3056" Type of Posting: "Instrument" Status: "Proposal"
Hamilton General Homes (1971) Ltd., Approval of an amendment to the Niagara Escarpment Plan
 - 9/20/02 10:30:00 AM

365. "RB02E6003" Type of Posting: "Regulation" Status: "Proposal"
Amendment of Ontario Regulation 665/98 (Hunting) made under the Fish and Wildlife Conservation Act to permit a person, under the authority of a licence, to use a dog or dogs to pursue, chase or search for black bear, but not kill or capture black bear, during the day at any time of year
 - 9/23/02 12:20:00 PM

366. "IA02E1141" Type of Posting: "Instrument" Status: "Proposal"

Saputo Cheese Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 9/23/02 12:53:00 PM

367. "IA02E1148" Type of Posting: "Instrument" Status: "Proposal"
Westroc Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/23/02 12:54:00 PM

368. "IA02E1154" Type of Posting: "Instrument" Status: "Proposal"
Richmond Welding and Iron Works Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 9/24/02 12:09:00 PM

369. "PB00E3003" Type of Posting: "Policy" Status: "Proposal"
Land use planning for the Kawartha Highlands Signature Site
- 9/24/02 12:10:00 PM

370. "IA02E1160" Type of Posting: "Instrument" Status: "Proposal"
Fifth wheel Corporation Permit to take water
- 9/24/02 2:10:00 PM

371. "IA02E1159" Type of Posting: "Instrument" Status: "Proposal"
Ontario Power Generation Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/24/02 2:10:00 PM

372. "RA00E0008" Type of Posting: "Regulation" Status: "Proposal"
Amendment to Ontario Regulation 681/94 - Classified Instruments for Pesticides
- 9/25/02 8:36:00 AM

373. "IF02E3012" Type of Posting: "Instrument" Status: "Proposal"
The County of Essex Approval of an Official Plan
- 9/25/02 12:14:00 PM

374. "IA02E1164" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/25/02 2:02:00 PM

375. "IA02E1165" Type of Posting: "Instrument" Status: "Proposal"
Copetown Woods Golf Inc. Permit to take water
- 9/26/02 2:03:00 PM

376. "IA02E1167" Type of Posting: "Instrument" Status: "Proposal"
Viva Magnetics (Canada) Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 9/26/02 2:03:00 PM

377. "IA02E1168" Type of Posting: "Instrument" Status: "Proposal"
The Panigas Group of Companies Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/27/02 9:00:00 AM

378. "IA02E1169" Type of Posting: "Instrument" Status: "Proposal"
Husky Energy Inc. Order for remedial work.
- 9/27/02 1:58:00 PM

379. "IA02E1170" Type of Posting: "Instrument" Status: "Proposal"
Petro Canada Order for remedial work.
- 9/27/02 1:59:00 PM

380. "IA02E1174" Type of Posting: "Instrument" Status: "Proposal"
Aquafarms 93 Permit to take water
- 9/30/02 1:02:00 PM

381. "IA02E1173" Type of Posting: "Instrument" Status: "Proposal"
1448405 Ontario Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/30/02 1:02:00 PM

382. "IA02E1176" Type of Posting: "Instrument" Status: "Proposal"
DEG Environmental Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/30/02 1:02:00 PM

383. "IA02E1175" Type of Posting: "Instrument" Status: "Proposal"
TRW Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 9/30/02 1:02:00 PM

384. "IA02E1182" Type of Posting: "Instrument" Status: "Proposal"
Van-Rob Stampings Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/30/02 1:28:00 PM

385. "IA02E1171" Type of Posting: "Instrument" Status: "Proposal"
Dan Murphy Ford Sales Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/30/02 1:28:00 PM

386. "IA02E1181" Type of Posting: "Instrument" Status: "Proposal"
715137 Ontario Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/30/02 1:28:00 PM

387. "IA02E1180" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 9/30/02 1:28:00 PM

388. "IA02E1178" Type of Posting: "Instrument" Status: "Proposal"
Echo Valley Resort Permit to take water
- 9/30/02 1:28:00 PM

389. "IA02E1177" Type of Posting: "Instrument" Status: "Proposal"
Woodington Lake Golf Club Ltd. Permit to take water
- 9/30/02 1:28:00 PM

390. "IA02E1189" Type of Posting: "Instrument" Status: "Proposal"
Holiday Kitchens of Greensville Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/1/02 9:46:00 AM

391. "IA02E1186" Type of Posting: "Instrument" Status: "Proposal"
Cabot Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/1/02 9:46:00 AM

392. "IA02E1191" Type of Posting: "Instrument" Status: "Proposal"
Camp Tamakwa Inc. Permit to take water
- 10/1/02 2:24:00 PM

393. "IA02E1193" Type of Posting: "Instrument" Status: "Proposal"
Foxpoint Resources Limited Permit to take water
- 10/1/02 2:24:00 PM

394. "PB02E1006" Type of Posting: "Policy" Status: "Proposal"
Shebandowan Lake Management Plan Review
- 10/1/02 2:24:00 PM

395. "PF02E0001" Type of Posting: "Policy" Status: "Proposal"
Draft Principles for the North Pickering Land Exchange and Development
- 10/1/02 3:02:00 PM

396. "IA02E1195" Type of Posting: "Instrument" Status: "Proposal"
Boeing Toronto, Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/2/02 2:17:00 PM

397. "IA02E1196" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited Approval for sewage works
- 10/2/02 2:17:00 PM

398. "IA02E1197" Type of Posting: "Instrument" Status: "Proposal"
North American Tillage Tools Company Approval for discharge into the natural environment other than water (i.e. Air)
- 10/2/02 2:17:00 PM

399. "IA02E1198" Type of Posting: "Instrument" Status: "Proposal"
Glengarry Golf and Country Club Limited Permit to take water
- 10/3/02 1:14:00 PM

400. "IA02E1199" Type of Posting: "Instrument" Status: "Proposal"
Essroc Canada Inc. Permit to take water
- 10/3/02 1:14:00 PM

401. "IA02E1201" Type of Posting: "Instrument" Status: "Proposal"
Essroc Canada Inc. Permit to take water
- 10/3/02 1:14:00 PM

402. "IB02E3065" Type of Posting: "Instrument" Status: "Proposal"
Strada Aggregates Inc., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 10/7/02 10:41:00 AM

403. "IA02E1205" Type of Posting: "Instrument" Status: "Proposal"
1493122 Ontario Limited Order for preventative measures.
- 10/7/02 1:00:00 PM

404. "IA02E1203" Type of Posting: "Instrument" Status: "Proposal"
Emerald Links Golf Course & Airport Golfland Limited Permit to take water
- 10/7/02 1:00:00 PM

405. "IA02E1204" Type of Posting: "Instrument" Status: "Proposal"
Richmond Centennial Golf Club Permit to take water
- 10/7/02 1:00:00 PM

406. "IA02E1206" Type of Posting: "Instrument" Status: "Proposal"
Siemens Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 10/8/02 7:21:00 AM

407. "IB02E3067" Type of Posting: "Instrument" Status: "Proposal"
Teeswater Concrete Ready Mix Ltd. and Tony Lang Farms Ltd., Approval of licensee proposed amendment to a site plan
- 10/8/02 9:14:00 AM

408. "IA02E1218" Type of Posting: "Instrument" Status: "Proposal"
Can American Stone Spreader Sales Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 10/8/02 9:14:00 AM

409. "IA02E1217" Type of Posting: "Instrument" Status: "Proposal"
Clear Water Environmental Incorporated Approval for sewage works
- 10/8/02 9:14:00 AM

410. "IA02E1215" Type of Posting: "Instrument" Status: "Proposal"
Rea International Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/8/02 9:14:00 AM

411. "IA02E1212" Type of Posting: "Instrument" Status: "Proposal"
1438109 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/8/02 9:14:00 AM

412. "IA02E1216" Type of Posting: "Instrument" Status: "Proposal"
Fibrex Insulations Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/8/02 9:14:00 AM

413. "IA02E1226" Type of Posting: "Instrument" Status: "Proposal"
Linetech Design & Mfg. Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/8/02 12:57:00 PM

414. "IA02E1228" Type of Posting: "Instrument" Status: "Proposal"
Wills Chevrolet Oldsmobile (2001) Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/8/02 12:57:00 PM

415. "IA02E1227" Type of Posting: "Instrument" Status: "Proposal"
Twin Falls Limited Partnership Permit to take water
- 10/8/02 12:57:00 PM

416. "IA02E1225" Type of Posting: "Instrument" Status: "Proposal"
Commonwealth Plywood Co. Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/8/02 12:57:00 PM

417. "IA02E1222" Type of Posting: "Instrument" Status: "Proposal"

Canadian Waste Services Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/8/02 12:57:00 PM

418. "IA02E1223" Type of Posting: "Instrument" Status: "Proposal"
Canadian Waste Services Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/8/02 12:57:00 PM

419. "IB02E3066" Type of Posting: "Instrument" Status: "Proposal"
Maurice Duval, Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 10/8/02 12:57:00 PM

420. "IA02E1236" Type of Posting: "Instrument" Status: "Proposal"
Morrisburg Golf Club Inc. Permit to take water
- 10/9/02 10:09:00 AM

421. "IA02E1232" Type of Posting: "Instrument" Status: "Proposal"
Coltec Aerospace Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/9/02 10:09:00 AM

422. "IA02E1231" Type of Posting: "Instrument" Status: "Proposal"
MDM Auto (Alban) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/9/02 10:09:00 AM

423. "IB02E2006" Type of Posting: "Instrument" Status: "Proposal"
Precut Hardwood Inc., Issuance of a forest resource processing facility licence
- 10/9/02 12:05:00 PM

424. "IA02E1161" Type of Posting: "Instrument" Status: "Proposal"
York Major Holdings Inc. Permit to take water
- 10/9/02 12:09:00 PM

425. "IA02E1239" Type of Posting: "Instrument" Status: "Proposal"
Trevgar Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/9/02 2:20:00 PM

426. "IA02E1128" Type of Posting: "Instrument" Status: "Proposal"
Nassaw Springs Ltd. Permit to take water
- 10/10/02 9:50:00 AM

427. "IA02E1247" Type of Posting: "Instrument" Status: "Proposal"
Hostmann-Steinberg Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 10/10/02 10:18:00 AM

428. "IA02E1240" Type of Posting: "Instrument" Status: "Proposal"
Potter Pumping Services Limited Approval for sewage works
- 10/10/02 10:18:00 AM

429. "IA02E1202" Type of Posting: "Instrument" Status: "Proposal"

Timatt Holdings Inc. Permit to take water
- 10/10/02 10:18:00 AM

430. "IA02E1243" Type of Posting: "Instrument" Status: "Proposal"
Brookshell Pontiac Buick GMC Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/10/02 10:18:00 AM

431. "IA02E1242" Type of Posting: "Instrument" Status: "Proposal"
781998 Ontario Inc. Approval for a waste disposal site
- 10/10/02 10:18:00 AM

432. "IA02E1253" Type of Posting: "Instrument" Status: "Proposal"
Tec Park Ltd. Permit to take water
- 10/10/02 12:33:00 PM

433. "IA02E1249" Type of Posting: "Instrument" Status: "Proposal"
Omron Dualtec Automotive Electronics Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/10/02 12:33:00 PM

434. "IA02E1250" Type of Posting: "Instrument" Status: "Proposal"
Creekside Land Corporation Permit to take water
- 10/10/02 12:33:00 PM

435. "IB02E3069" Type of Posting: "Instrument" Status: "Proposal"
The Corporation of the Township of Augusta, Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 10/11/02 1:02:00 PM

436. "IA02E1259" Type of Posting: "Instrument" Status: "Proposal"
Emerald Links Golf Course & Airport Golfland Limited Permit to take water
- 10/11/02 1:34:00 PM

437. "IA02E1260" Type of Posting: "Instrument" Status: "Proposal"
Detlef Gerhard Kallies Approval for discharge into the natural environment other than water (i.e. Air)
- 10/11/02 1:34:00 PM

438. "IA02E1256" Type of Posting: "Instrument" Status: "Proposal"
Loughborough Housing Corporation Permit to take water
- 10/11/02 1:34:00 PM

439. "IA02E1255" Type of Posting: "Instrument" Status: "Proposal"
Rob Shannon Permit to take water
- 10/11/02 1:34:00 PM

440. "IA02E1258" Type of Posting: "Instrument" Status: "Proposal"
Diamond in the Ruff Ltd. Permit to take water
- 10/11/02 1:34:00 PM

441. "IB02E3071" Type of Posting: "Instrument" Status: "Proposal"
H & H Construction Inc., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 10/15/02 10:29:00 AM

442. "IA02E1272" Type of Posting: "Instrument" Status: "Proposal"
Terratechnik Environmental Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 10/16/02 9:10:00 AM

443. "IA02E1275" Type of Posting: "Instrument" Status: "Proposal"
Massive Auto Collision Incorporated Approval for discharge into the natural environment other than water (i.e. Air)
- 10/17/02 9:27:00 AM

444. "IA02E1276" Type of Posting: "Instrument" Status: "Proposal"
Douglas Lawrence Windeatt Approval for discharge into the natural environment other than water (i.e. Air)
- 10/17/02 1:58:00 PM

445. "IT02E0014" Type of Posting: "Instrument" Status: "Proposal"
Nejmark Architect Application for variances from the TSS Act, LFH Reg. 217/01
- 10/18/02 8:17:00 AM

446. "IA02E1285" Type of Posting: "Instrument" Status: "Proposal"
Birchmount Collision (1995) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/18/02 1:57:00 PM

447. "IA02E1287" Type of Posting: "Instrument" Status: "Proposal"
Smit Autobody Approval for discharge into the natural environment other than water (i.e. Air)
- 10/21/02 2:08:00 PM

448. "IA02E1293" Type of Posting: "Instrument" Status: "Proposal"
Norm's Collision Centre Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/21/02 2:09:00 PM

449. "IA02E1292" Type of Posting: "Instrument" Status: "Proposal"
NRI Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/21/02 2:09:00 PM

450. "IA02E1289" Type of Posting: "Instrument" Status: "Proposal"
Thames Valley District School Board Approval for discharge into the natural environment other than water (i.e. Air)
- 10/21/02 2:09:00 PM

451. "IA02E1288" Type of Posting: "Instrument" Status: "Proposal"
Cam Tool & Die Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/21/02 2:09:00 PM

452. "IB02E3072" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc., Approval of licensee proposed amendment to a site plan
- 10/21/02 2:39:00 PM

453. "IA02E1297" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited Permit to take water
- 10/22/02 8:28:00 AM

454. "IA02E1296" Type of Posting: "Instrument" Status: "Proposal"
Halla Climate Control Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/22/02 8:29:00 AM

455. "IA02E1298" Type of Posting: "Instrument" Status: "Proposal"
Twin Falls Limited Partnership Permit to take water
- 10/22/02 8:29:00 AM

456. "IA02E1302" Type of Posting: "Instrument" Status: "Proposal"
Division Collision Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/22/02 1:16:00 PM

457. "IA02E1299" Type of Posting: "Instrument" Status: "Proposal"
Achievor Recovery Limited Order for performance of environmental measures.
- 10/22/02 1:16:00 PM

458. "PB02E6017" Type of Posting: "Policy" Status: "Proposal"
Management Strategy for the Spanish River Valley Signature Site
- 10/22/02 1:16:00 PM

459. "IA02E1301" Type of Posting: "Instrument" Status: "Proposal"
Hotz Environmental Services Inc. Approval for a waste disposal site.
- 10/22/02 1:16:00 PM

460. "IA02E1305" Type of Posting: "Instrument" Status: "Proposal"
Red Lake Area Golf & Country Club Permit to take water
- 10/22/02 2:37:00 PM

461. "IF02E3013" Type of Posting: "Instrument" Status: "Proposal"
Municipality of Leamington (former Town of Leamington) Approval of an Official Plan Amendment
- 10/23/02 10:18:00 AM

462. "PB02E6022" Type of Posting: "Policy" Status: "Proposal"
Regional Wood Supply Strategies
- 10/23/02 10:18:00 AM

463. "IA02E1314" Type of Posting: "Instrument" Status: "Proposal"
Moloney Electric Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/23/02 2:04:00 PM

464. "IA02E1312" Type of Posting: "Instrument" Status: "Proposal"
The Upper Canada District School Board Approval for discharge into the natural environment other than water (i.e. Air)
- 10/23/02 2:04:00 PM

465. "IA02E1318" Type of Posting: "Instrument" Status: "Proposal"
Domtar Inc. Approval for a waste disposal site.
- 10/24/02 8:39:00 AM

466. "IA02E1316" Type of Posting: "Instrument" Status: "Proposal"
Wabco Freight Car Products Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/24/02 8:39:00 AM

467. "IA02E1317" Type of Posting: "Instrument" Status: "Proposal"
Harry Willemse Permit to take water
- 10/24/02 8:39:00 AM

468. "IA02E1325" Type of Posting: "Instrument" Status: "Proposal"
King Recycling & Waste Disposal Inc. Approval for a waste disposal site.
- 10/25/02 10:21:00 AM

469. "IA02E1323" Type of Posting: "Instrument" Status: "Proposal"
Dofasco Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/25/02 10:21:00 AM

470. "IA02E1332" Type of Posting: "Instrument" Status: "Proposal"
Colombo Chrysler Dodge Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 10/28/02 3:03:00 PM

471. "IA02E1335" Type of Posting: "Instrument" Status: "Proposal"
Canlyte Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/29/02 1:34:00 PM

472. "IA02E1337" Type of Posting: "Instrument" Status: "Proposal"
1361241 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 10/29/02 1:34:00 PM

473. "IA02E1336" Type of Posting: "Instrument" Status: "Proposal"
World's Finest Chocolate Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 10/29/02 1:34:00 PM

474. "IA02E1333" Type of Posting: "Instrument" Status: "Proposal"
Global Waste Services Inc. Approval for a waste disposal site.
- 10/29/02 1:34:00 PM

475. "IA02E1338" Type of Posting: "Instrument" Status: "Proposal"
Holiday Ford Sales (1980) Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 10/29/02 1:34:00 PM

476. "IA02E1339" Type of Posting: "Instrument" Status: "Proposal"
Treschak Enterprises Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/29/02 3:50:00 PM

477. "IA02E1348" Type of Posting: "Instrument" Status: "Proposal"
Bruce Bissell Buick Pontiac Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 10/30/02 1:51:00 PM

478. "IA02E1347" Type of Posting: "Instrument" Status: "Proposal"
Artistic Finishes Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/30/02 1:51:00 PM

479. "IA02E1346" Type of Posting: "Instrument" Status: "Proposal"

Banks Alignment Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/30/02 1:51:00 PM

480. "IA02E1343" Type of Posting: "Instrument" Status: "Proposal"
Corning Frequency Control Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 10/30/02 1:51:00 PM

481. "IA02E1340" Type of Posting: "Instrument" Status: "Proposal"
Garden Lakes Feed Yards LLC Permit to take water
- 10/30/02 1:51:00 PM

482. "IA02E1341" Type of Posting: "Instrument" Status: "Proposal"
Durham Mobile Homes & Park Ltd. Permit to take water
- 10/30/02 1:51:00 PM

483. "IA02E1342" Type of Posting: "Instrument" Status: "Proposal"
Allandale Golf Course Permit to take water
- 10/30/02 1:51:00 PM

484. "RF02E0005" Type of Posting: "Regulation" Status: "Proposal"
Amendments to the Ontario Building Code (O. Reg. 403/97) made under the Building Code Act, 1992 (as amended by the Building Code Statute Law Amendment Act, 2002)
- 10/30/02 3:06:00 PM

485. "IA02E1351" Type of Posting: "Instrument" Status: "Proposal"
Canada Hair Cloth Company Approval for discharge into the natural environment other than water (i.e. Air)
- 10/31/02 1:34:00 PM

486. "IA02E1350" Type of Posting: "Instrument" Status: "Proposal"
1475351 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 10/31/02 1:34:00 PM

487. "IA02E1353" Type of Posting: "Instrument" Status: "Proposal"
Hercules Canada (2002) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/1/02 2:58:00 PM

488. "IA02E1364" Type of Posting: "Instrument" Status: "Proposal"
Harsco Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 11/4/02 1:43:00 PM

489. "IA02E1361" Type of Posting: "Instrument" Status: "Proposal"
1207094 Ontario Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/4/02 1:43:00 PM

490. "IA02E1360" Type of Posting: "Instrument" Status: "Proposal"
Wheeltronic Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/4/02 1:43:00 PM

491. "IA02E1359" Type of Posting: "Instrument" Status: "Proposal"
Fileco Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/4/02 1:43:00 PM

492. "IA02E1356" Type of Posting: "Instrument" Status: "Proposal"
Yaskawa Motoman Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/4/02 1:43:00 PM

493. "IA02E1357" Type of Posting: "Instrument" Status: "Proposal"
Algoods Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/4/02 1:43:00 PM

494. "IA02E1355" Type of Posting: "Instrument" Status: "Proposal"
Downtown Auto Collision Centre Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/4/02 1:43:00 PM

495. "PB02E2002" Type of Posting: "Policy" Status: "Proposal"
Nagagamisis Central Plateau Signature Site Strategy
- 11/4/02 1:43:00 PM

496. "IA02E1373" Type of Posting: "Instrument" Status: "Proposal"
Moss Auto Body (1987) Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 11/5/02 1:35:00 PM

497. "IT02E0017" Type of Posting: "Instrument" Status: "Proposal"
General Motors of Canada Limited Application for variances from the TSS Act, LFH Reg. 217/01
- 11/5/02 1:35:00 PM

498. "IA02E1369" Type of Posting: "Instrument" Status: "Proposal"
Ivan's Collision Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/5/02 1:35:00 PM

499. "IA02E1366" Type of Posting: "Instrument" Status: "Proposal"
Nemak of Canada Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 11/5/02 1:35:00 PM

500. "IA02E1371" Type of Posting: "Instrument" Status: "Proposal"
Highwood Resources Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 11/5/02 1:35:00 PM

501. "IA02E1370" Type of Posting: "Instrument" Status: "Proposal"
Andrew Benedetti Permit to take water
- 11/5/02 1:35:00 PM

502. "PB02E3003" Type of Posting: "Policy" Status: "Proposal"
Petawawa Terrace Provincial Park Management Plan
- 11/5/02 1:35:00 PM

503. "IF02E9014" Type of Posting: "Instrument" Status: "Proposal"
The Township of Drummond-North Elmsley Approval of an Official Plan
- 11/6/02 12:54:00 PM

504. "IA02E1383" Type of Posting: "Instrument" Status: "Proposal"

Brampton Brick Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 11/6/02 4:12:00 PM

505. "IA02E1388" Type of Posting: "Instrument" Status: "Proposal"
Haldimand-Norfolk Sanitary Landfill Inc. Approval for a waste disposal site.
- 11/7/02 2:33:00 PM

506. "IA02E1393" Type of Posting: "Instrument" Status: "Proposal"
Weyerhaeuser Company Limited Approval for sewage works
- 11/7/02 2:33:00 PM

507. "IA02E1387" Type of Posting: "Instrument" Status: "Proposal"
TDL Group Ltd Order for preventative measures.
- 11/7/02 2:33:00 PM

508. "IA02E1390" Type of Posting: "Instrument" Status: "Proposal"
Michigan Maple Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 11/7/02 2:33:00 PM

509. "IA02E1398" Type of Posting: "Instrument" Status: "Proposal"
Invar Manufacturing Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/8/02 3:07:00 PM

510. "IA02E1397" Type of Posting: "Instrument" Status: "Proposal"
Hong Nga Nguyen Approval for discharge into the natural environment other than water (i.e. Air)
- 11/8/02 3:07:00 PM

511. "IF02E2027" Type of Posting: "Instrument" Status: "Proposal"
The Township of Strong Approval of an Official Plan Amendment
- 11/8/02 3:07:00 PM

512. "IA02E1322" Type of Posting: "Instrument" Status: "Proposal"
Emmanuel Convalescent Foundation Permit to take water
- 11/8/02 3:07:00 PM

513. "IA02E1402" Type of Posting: "Instrument" Status: "Proposal"
Embrun Ford Sales Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/12/02 3:00:00 PM

514. "IA02E1403" Type of Posting: "Instrument" Status: "Proposal"
Fielding Chemical Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/12/02 3:00:00 PM

515. "IF02E9015" Type of Posting: "Instrument" Status: "Proposal"
The Township of South Frontenac Approval of an Official Plan Amendment
- 11/12/02 3:00:00 PM

516. "IA02E1401" Type of Posting: "Instrument" Status: "Proposal"
Crown Collision Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/12/02 3:00:00 PM

517. "IA02E1334" Type of Posting: "Instrument" Status: "Proposal"

1112004 Ontario Inc. Approval for a waste disposal site.
- 11/13/02 2:44:00 PM

518. "IA02E1409" Type of Posting: "Instrument" Status: "Proposal"
Kawartha Downs Limited Approval for sewage works
- 11/13/02 2:50:00 PM

519. "IA02E1406" Type of Posting: "Instrument" Status: "Proposal"
Drew Kimbel Holdings Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/13/02 2:50:00 PM

520. "IA02E1405" Type of Posting: "Instrument" Status: "Proposal"
Maratek Environmental Incorporated Approval for a waste disposal site.
- 11/13/02 2:50:00 PM

521. "IF02E3014" Type of Posting: "Instrument" Status: "Proposal"
The Town of Aylmer Approval of an Official Plan Amendment
- 11/13/02 2:50:00 PM

522. "IF02E3015" Type of Posting: "Instrument" Status: "Proposal"
The Township of Malahide, Approval of an Official Plan Amendment
- 11/13/02 2:50:00 PM

523. "IA02E1420" Type of Posting: "Instrument" Status: "Proposal"
Windsor Body & Fender Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 11/14/02 3:24:00 PM

524. "IB02E3074" Type of Posting: "Instrument" Status: "Proposal"
Great Lakes Aggregates Inc., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 11/14/02 3:24:00 PM

525. "IB02E3073" Type of Posting: "Instrument" Status: "Proposal"
Thomas Cavanagh Construction Limited, Approval of licensee proposed amendment to a site plan
- 11/14/02 3:24:00 PM

526. "IA02E1419" Type of Posting: "Instrument" Status: "Proposal"
P.J. Wallbank Manufacturing Co. Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 11/14/02 3:24:00 PM

527. "IA02E1416" Type of Posting: "Instrument" Status: "Proposal"
Dupont Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/14/02 3:24:00 PM

528. "IA02E1411" Type of Posting: "Instrument" Status: "Proposal"
Maximum Disposal Services Inc. Approval for a waste disposal site.
- 11/14/02 3:24:00 PM

529. "IA02E1412" Type of Posting: "Instrument" Status: "Proposal"
Crown Cork & Seal Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/14/02 3:24:00 PM

530. "IA02E1422" Type of Posting: "Instrument" Status: "Proposal"
Kennette Sand & Gravel Limited Permit to take water
- *11/15/02 3:06:00 PM*

531. "IA02E1425" Type of Posting: "Instrument" Status: "Proposal"
C. Villeneuve Construction Co. Ltd. Permit to take water
- *11/15/02 3:07:00 PM*

532. "IB02E3070" Type of Posting: "Instrument" Status: "Proposal"
Cornwall Gravel Company Limited, Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- *11/15/02 3:07:00 PM*

533. "IA02E1429" Type of Posting: "Instrument" Status: "Proposal"
Mike McMahon Chevrolet-Oldsmobile Limited Approval for discharge into the natural environment other than water (i.e. Air)
- *11/18/02 3:08:00 PM*

534. "IA02E1433" Type of Posting: "Instrument" Status: "Proposal"
Messier-Dowty Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *11/19/02 3:14:00 PM*

535. "IA02E1442" Type of Posting: "Instrument" Status: "Proposal"
Waterdown Garden Supplies Ltd. Approval for a waste disposal site.
- *11/19/02 3:15:00 PM*

536. "IA02E1440" Type of Posting: "Instrument" Status: "Proposal"
L. A. Rubber Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *11/19/02 3:15:00 PM*

537. "IA02E1438" Type of Posting: "Instrument" Status: "Proposal"
Skobah Investments Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *11/19/02 3:15:00 PM*

538. "IA02E1437" Type of Posting: "Instrument" Status: "Proposal"
Great West Timber Limited Approval for discharge into the natural environment other than water (i.e. Air)
- *11/19/02 3:15:00 PM*

539. "IA02E1446" Type of Posting: "Instrument" Status: "Proposal"
Angels Gate Winery Limited Approval for sewage works
- *11/20/02 3:52:00 PM*

540. "IA02E1448" Type of Posting: "Instrument" Status: "Proposal"
Arizon Disposal Services Limited Approval for a waste disposal site.
- *11/20/02 3:52:00 PM*

541. "IA02E1445" Type of Posting: "Instrument" Status: "Proposal"
Lamco International Die Cast Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- *11/20/02 3:52:00 PM*

542. "IA02E1454" Type of Posting: "Instrument" Status: "Proposal"

1178543 Ontario Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/21/02 3:29:00 PM

543. "IA02E1459" Type of Posting: "Instrument" Status: "Proposal"
Fifth Wheel Corporation Approval for sewage works
- 11/21/02 3:29:00 PM

544. "IA02E1458" Type of Posting: "Instrument" Status: "Proposal"
London Wrought Iron Products Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 11/21/02 3:29:00 PM

545. "IA02E1453" Type of Posting: "Instrument" Status: "Proposal"
Stelco Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/21/02 3:29:00 PM

546. "IA02E1456" Type of Posting: "Instrument" Status: "Proposal"
Longlac Wood Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/21/02 3:29:00 PM

547. "IA02E1467" Type of Posting: "Instrument" Status: "Proposal"
John Peter Bartel Approval for discharge into the natural environment other than water (i.e. Air)
- 11/22/02 4:29:00 PM

548. "IA02E1466" Type of Posting: "Instrument" Status: "Proposal"
C.C. Aggregates Inc. Approval for a waste disposal site.
- 11/22/02 4:29:00 PM

549. "IA02E1465" Type of Posting: "Instrument" Status: "Proposal"
Silver Bay Water Inc. Permit to take water
- 11/22/02 4:29:00 PM

550. "IA02E1378" Type of Posting: "Instrument" Status: "Proposal"
Maple Leaf Foods Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/22/02 4:29:00 PM

551. "IA02E1472" Type of Posting: "Instrument" Status: "Proposal"
Cosma International Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/25/02 9:15:00 AM

552. "IA02E1468" Type of Posting: "Instrument" Status: "Proposal"
Vaughan Transfer and Recycling Inc. Approval for a waste disposal site.
- 11/25/02 9:15:00 AM

553. "IA02E1471" Type of Posting: "Instrument" Status: "Proposal"
Thomas S. McCarthy & Barbara Ann McCarthy Approval for sewage works
- 11/25/02 9:15:00 AM

554. "IA02E1470" Type of Posting: "Instrument" Status: "Proposal"
Fern Brook Springs Bottled Water Company Limited Permit to take water
- 11/25/02 9:15:00 AM

555. "IA02E0691" Type of Posting: "Instrument" Status: "Proposal"

Tinnerman Palnut Engineered Products (Canada) Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/25/02 9:15:00 AM

556. "IA02E1476" Type of Posting: "Instrument" Status: "Proposal"
Limestone Auto Body Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 11/25/02 3:31:00 PM

557. "IA02E1477" Type of Posting: "Instrument" Status: "Proposal"
Veltri Metal Products Co. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/25/02 3:31:00 PM

558. "IA02E1475" Type of Posting: "Instrument" Status: "Proposal"
Fowler Construction Company Limited Approval for sewage works
- 11/25/02 3:31:00 PM

559. "IB02E3077" Type of Posting: "Instrument" Status: "Proposal"
Delmar Erb, Add, rescind, or vary a condition of a licence
- 11/25/02 3:38:00 PM

560. "IA02E1479" Type of Posting: "Instrument" Status: "Proposal"
Molson Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 11/25/02 3:38:00 PM

561. "IA02E1481" Type of Posting: "Instrument" Status: "Proposal"
Ottawa Citizen Group Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/26/02 8:20:00 AM

562. "IA02E1489" Type of Posting: "Instrument" Status: "Proposal"
Queensway Recycling Corp. Approval for a waste disposal site.
- 11/26/02 3:49:00 PM

563. "IA02E1484" Type of Posting: "Instrument" Status: "Proposal"
Bill Storey Pontiac Buick Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/26/02 3:49:00 PM

564. "IA02E1488" Type of Posting: "Instrument" Status: "Proposal"
York Collision Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/26/02 3:49:00 PM

565. "IA02E1486" Type of Posting: "Instrument" Status: "Proposal"
1378034 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/26/02 3:49:00 PM

566. "IA02E1487" Type of Posting: "Instrument" Status: "Proposal"
Centre and South Hastings Waste Services Board Approval for a waste disposal site.
- 11/26/02 3:49:00 PM

567. "IA02E1498" Type of Posting: "Instrument" Status: "Proposal"
Canadian Waste Services Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/27/02 4:09:00 PM

568. "IA02E1493" Type of Posting: "Instrument" Status: "Proposal"
Magick Woods Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/27/02 4:09:00 PM

569. "IA02E1492" Type of Posting: "Instrument" Status: "Proposal"
Imperial Auto Collision (1991) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/27/02 4:09:00 PM

570. "IA02E1491" Type of Posting: "Instrument" Status: "Proposal"
Kiwanis Club of Owen Sound Permit to take water
- 11/27/02 4:09:00 PM

571. "IA02E1490" Type of Posting: "Instrument" Status: "Proposal"
Genpharm Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/27/02 4:09:00 PM

572. "IA02E1499" Type of Posting: "Instrument" Status: "Proposal"
Craigowan/Oxford Golf & Country Club Permit to take water
- 11/27/02 4:09:00 PM

573. "IA02E1496" Type of Posting: "Instrument" Status: "Proposal"
Environmental Management Solutions Inc. Approval for a waste disposal site.
- 11/27/02 4:09:00 PM

574. "PB01E3011" Type of Posting: "Policy" Status: "Proposal"
O'Donnell Point Provincial Nature Reserve Management Plan and Potential Crown Land Disposition
- 11/28/02 12:49:00 PM

575. "IA02E1500" Type of Posting: "Instrument" Status: "Proposal"
Picarro Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/28/02 3:10:00 PM

576. "IA02E1506" Type of Posting: "Instrument" Status: "Proposal"
TransAlta Energy Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 11/28/02 3:10:00 PM

577. "IA02E1503" Type of Posting: "Instrument" Status: "Proposal"
TKA Fabco Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/28/02 3:10:00 PM

578. "IA02E1505" Type of Posting: "Instrument" Status: "Proposal"
1106488 Ontario Limited Approval for a waste disposal site.
- 11/28/02 3:10:00 PM

579. "IA02E1504" Type of Posting: "Instrument" Status: "Proposal"
ITW Foils a Division of ITW Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 11/28/02 3:10:00 PM

580. "IA02E1502" Type of Posting: "Instrument" Status: "Proposal"

Southern Fine Foods Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 11/28/02 3:10:00 PM

581. "IA02E1508" Type of Posting: "Instrument" Status: "Proposal"
Scythes Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/29/02 2:32:00 PM

582. "IA02E1514" Type of Posting: "Instrument" Status: "Proposal"
Flowserve Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/29/02 2:32:00 PM

583. "IA02E1513" Type of Posting: "Instrument" Status: "Proposal"
Atoma International Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 11/29/02 2:32:00 PM

584. "IA02E1507" Type of Posting: "Instrument" Status: "Proposal"
1297024 Ontario Limited Permit to take water
- 11/29/02 2:32:00 PM

585. "IA02E1509" Type of Posting: "Instrument" Status: "Proposal"
Maple Leaf Foods Inc. Approval for a waste disposal site.
- 11/29/02 2:32:00 PM

586. "PB02E3012" Type of Posting: "Policy" Status: "Proposal"
Consideration of MNR's decision to not link three OLL sites: C11 Lingham Lake Conservation Reserve, C17 Elzevir Peatlands Conservation Reserve, and C18 Mount Moriah Conservation Reserve.
- 12/2/02 1:24:00 PM

587. "IA02E1517" Type of Posting: "Instrument" Status: "Proposal"
Integrated Technology Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/2/02 1:24:00 PM

588. "RC02E0002" Type of Posting: "Regulation" Status: "Proposal"
Stage 2 Draft Nutrient Management Regulations under the Nutrient Management Act.
- 12/2/02 1:24:00 PM

589. "IA02E1515" Type of Posting: "Instrument" Status: "Proposal"
Maple Leaf Foods Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/2/02 1:24:00 PM

590. "RA02E0035" Type of Posting: "Regulation" Status: "Proposal"
Stage 2 Regulatory changes regarding the Proposed Strategy for the Five-Year Phase-Out of the Land Application of Untreated Septage
- 12/2/02 1:29:00 PM

591. "IA02E1520" Type of Posting: "Instrument" Status: "Proposal"
Intier Automotive Closures Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/2/02 2:51:00 PM

592. "IA02E1519" Type of Posting: "Instrument" Status: "Proposal"

Erie Collision Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/2/02 2:51:00 PM

593. "IA02E1522" Type of Posting: "Instrument" Status: "Proposal"
Hamilton Bio Conversion Inc. Approval for a waste disposal site.
- 12/2/02 2:51:00 PM

594. "IA02E1521" Type of Posting: "Instrument" Status: "Proposal"
Regis Resources Inc. Permit to take water
- 12/2/02 2:51:00 PM

595. "IA02E1523" Type of Posting: "Instrument" Status: "Proposal"
Metroland Printing, Publishing & Distributing Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/2/02 2:52:00 PM

596. "IA02E1529" Type of Posting: "Instrument" Status: "Proposal"
Weston Bakeries Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/3/02 2:54:00 PM

597. "IA02E1531" Type of Posting: "Instrument" Status: "Proposal"
Connie Mailloux & Chris Ortner Permit to take water
- 12/3/02 2:54:00 PM

598. "IA02E1524" Type of Posting: "Instrument" Status: "Proposal"
Nexans Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/3/02 2:54:00 PM

599. "IA02E1527" Type of Posting: "Instrument" Status: "Proposal"
David Markett Permit to take water
- 12/3/02 2:54:00 PM

600. "IA02E1530" Type of Posting: "Instrument" Status: "Proposal"
2008788 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/3/02 2:54:00 PM

601. "IA02E1535" Type of Posting: "Instrument" Status: "Proposal"
Imperial Oil Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/4/02 3:24:00 PM

602. "IA02E1536" Type of Posting: "Instrument" Status: "Proposal"
Integrated Technology Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/4/02 3:24:00 PM

603. "IA02E1533" Type of Posting: "Instrument" Status: "Proposal"
Orenda Aerospace Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 12/4/02 3:24:00 PM

604. "IA02E1534" Type of Posting: "Instrument" Status: "Proposal"
Tyler Ridge Developments Inc. and Urban Farms Limited Permit to take water
- 12/4/02 3:24:00 PM

605. "IB02E2020" Type of Posting: "Instrument" Status: "Proposal"
Gary Tranberg, Revocation of a licence
- 12/4/02 3:25:00 PM

606. "IB02E2019" Type of Posting: "Instrument" Status: "Proposal"
Rintala Construction Company Limited, Revocation of a licence
- 12/4/02 3:25:00 PM

607. "IB02E2018" Type of Posting: "Instrument" Status: "Proposal"
844238 Ontario Limited - R.E. Mailloux Construction, Revocation of a licence
- 12/4/02 3:25:00 PM

608. "IB02E2017" Type of Posting: "Instrument" Status: "Proposal"
Bill Tait, Revocation of a licence
- 12/4/02 3:25:00 PM

609. "IB02E2016" Type of Posting: "Instrument" Status: "Proposal"
Rupert Acres Limited, Revocation of a licence
- 12/4/02 3:25:00 PM

610. "IB02E2015" Type of Posting: "Instrument" Status: "Proposal"
Gary R. Shewfelt and Terry G. Shewfelt, Revocation of a licence
- 12/4/02 3:25:00 PM

611. "IB02E2014" Type of Posting: "Instrument" Status: "Proposal"
David Bouchard, Revocation of a licence
- 12/4/02 3:25:00 PM

612. "IB02E2013" Type of Posting: "Instrument" Status: "Proposal"
Karhi Contracting Inc., Revocation of a licence
- 12/4/02 3:25:00 PM

613. "IB02E2012" Type of Posting: "Instrument" Status: "Proposal"
Karhi Contracting Inc., Revocation of a licence
- 12/4/02 3:25:00 PM

614. "IB02E2011" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 12/4/02 3:25:00 PM

615. "IA02E1539" Type of Posting: "Instrument" Status: "Proposal"
Quebecor World Mil Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/4/02 3:25:00 PM

616. "IB02E2009" Type of Posting: "Instrument" Status: "Proposal"
Tom Young, Revocation of a licence
- 12/4/02 3:25:00 PM

617. "IB02E2008" Type of Posting: "Instrument" Status: "Proposal"
Reginald Vincent Fleming, Revocation of a licence
- 12/4/02 3:25:00 PM

618. "IB02E2010" Type of Posting: "Instrument" Status: "Proposal"

Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 12/4/02 3:25:00 PM

619. "IA02E1541" Type of Posting: "Instrument" Status: "Proposal"
Alexander Awnings (1980) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/5/02 8:02:23 PM

620. "IA02E1542" Type of Posting: "Instrument" Status: "Proposal"
Niagara Energy Products Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/5/02 8:02:24 PM

621. "IA02E1543" Type of Posting: "Instrument" Status: "Proposal"
Dura Automotive Systems (Canada) Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/5/02 8:02:25 PM

622. "IA02E1544" Type of Posting: "Instrument" Status: "Proposal"
All Treat Farms Limited and LaVerne White Farms Limited Approval for a waste disposal site.
- 12/5/02 8:02:27 PM

623. "IA02E1545" Type of Posting: "Instrument" Status: "Proposal"
Amcan Castings Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/5/02 8:02:28 PM

624. "IA02E1547" Type of Posting: "Instrument" Status: "Proposal"
Inco, Ltd. Permit to take water
- 12/5/02 8:02:30 PM

625. "IA02E1554" Type of Posting: "Instrument" Status: "Proposal"
Amcan Castings Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/6/02 2:08:00 PM

626. "IA02E1551" Type of Posting: "Instrument" Status: "Proposal"
Oldcastle Building Products Canada, Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/6/02 2:08:00 PM

627. "IA02E1553" Type of Posting: "Instrument" Status: "Proposal"
Clean Harbors Canada, Inc. Approval for a waste disposal site.
- 12/6/02 2:08:00 PM

628. "PB01E3006" Type of Posting: "Policy" Status: "Proposal"
Fish Point and Lighthouse Point Provincial Nature Reserves Management Plan
- 12/6/02 2:08:00 PM

629. "IA02E1552" Type of Posting: "Instrument" Status: "Proposal"
Lily Cups Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/6/02 2:08:00 PM

630. "IA02E1555" Type of Posting: "Instrument" Status: "Proposal"
MRT Aggregate Inc. Permit to take water
- 12/9/02 11:04:00 AM

631. "IA02E1558" Type of Posting: "Instrument" Status: "Proposal"
1120951 Ontario Inc.(Antoine & Suzanne Beaulieu) Permit to take water
- 12/9/02 11:05:00 AM

632. "IA02E1557" Type of Posting: "Instrument" Status: "Proposal"
Rideau Bulk Terminals Inc. Permit to take water
- 12/9/02 11:05:00 AM

633. "IA02E1560" Type of Posting: "Instrument" Status: "Proposal"
J.J. Stewart Motors Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/9/02 3:56:00 PM

634. "IA02E1559" Type of Posting: "Instrument" Status: "Proposal"
Paul S. Dimora Approval for discharge into the natural environment other than water (i.e. Air)
- 12/9/02 3:56:00 PM

635. "IA02E1562" Type of Posting: "Instrument" Status: "Proposal"
Canadian Hydro Developers Ind. Permit to take water
- 12/10/02 8:19:00 AM

636. "IF02E2034" Type of Posting: "Instrument" Status: "Proposal"
The Municipality of Temagami Approval of an Official Plan
- 12/10/02 2:48:00 PM

637. "IF02E4024" Type of Posting: "Instrument" Status: "Proposal"
D.F. MacDonell A proposal for provisional consent (no Official Plan in Place)
- 12/10/02 2:48:00 PM

638. "PB02E6024" Type of Posting: "Policy" Status: "Proposal"
Proposal to release wild turkeys on Wildlife Management Unit 45, St. Joseph Island, Sault Ste Marie District.
- 12/11/02 2:45:57 PM

639. "IA02E1564" Type of Posting: "Instrument" Status: "Proposal"
Domtar Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/11/02 3:55:15 PM

640. "IA02E1566" Type of Posting: "Instrument" Status: "Proposal"
Canadian Gasket & Supply Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/11/02 3:55:21 PM

641. "IA02E1567" Type of Posting: "Instrument" Status: "Proposal"
George's Auto Body Approval for discharge into the natural environment other than water (i.e. Air)
- 12/11/02 3:55:22 PM

642. "IA02E1569" Type of Posting: "Instrument" Status: "Proposal"
Cummins Diesel Sales Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 12/11/02 3:55:33 PM

643. "IA02E1572" Type of Posting: "Instrument" Status: "Proposal"

Norampac Inc., Trenton Division Approval for discharge into the natural environment other than water (i.e. Air)
- 12/11/02 8:00:58 PM

644. "IA02E1573" Type of Posting: "Instrument" Status: "Proposal"
CGL Manufacturing Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/11/02 8:01:11 PM

645. "AB02E4002" Type of Posting: "Act" Status: "Proposal"
New Recreation Reserve legislation to establish a new legislated category of protected area, and apply the new category to the Kawartha Highlands.
- 12/12/02 7:58:38 PM

646. "IA02E1574" Type of Posting: "Instrument" Status: "Proposal"
1015386 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/12/02 8:10:15 PM

647. "IA02E1576" Type of Posting: "Instrument" Status: "Proposal"
Maxxim Medical Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/12/02 8:10:17 PM

648. "IA02E1577" Type of Posting: "Instrument" Status: "Proposal"
Quebecor World Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/12/02 8:16:05 PM

649. "IB02E3079" Type of Posting: "Instrument" Status: "Proposal"
Mr. Rob Gingerich, Approval of licensee proposed amendment to a site plan
- 12/13/02 5:06:01 PM

650. "IB02E3078" Type of Posting: "Instrument" Status: "Proposal"
McCann Redi-Mix Inc., Approval of licensee proposed amendment to a site plan
- 12/13/02 5:06:03 PM

651. "IA02E1578" Type of Posting: "Instrument" Status: "Proposal"
Nemak of Canada Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 12/13/02 6:43:32 PM

652. "IA02E1580" Type of Posting: "Instrument" Status: "Proposal"
General Motors of Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/13/02 6:43:36 PM

653. "IA02E1582" Type of Posting: "Instrument" Status: "Proposal"
Mervin Jones Drilling Ltd. Approval for a waste disposal site.
- 12/13/02 8:01:02 PM

654. "IA02E1583" Type of Posting: "Instrument" Status: "Proposal"
Millomat Stampings Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/16/02 7:23:15 PM

655. "IA02E1584" Type of Posting: "Instrument" Status: "Proposal"

Central Chrysler Plymouth (1981) Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/17/02 8:22:54 PM

656. "IA02E1586" Type of Posting: "Instrument" Status: "Proposal"
Alltech Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/17/02 8:22:56 PM

657. "IA02E1587" Type of Posting: "Instrument" Status: "Proposal"
Gary Caba Permit to take water
- 12/17/02 8:22:57 PM

658. "IA02E1588" Type of Posting: "Instrument" Status: "Proposal"
Cosma International Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/17/02 8:22:58 PM

659. "IA02E1589" Type of Posting: "Instrument" Status: "Proposal"
1532099 Ontario Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/17/02 8:22:59 PM

660. "IA02E1590" Type of Posting: "Instrument" Status: "Proposal"
Stanley Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/17/02 8:23:00 PM

661. "IA02E1591" Type of Posting: "Instrument" Status: "Proposal"
Imperial Tobacco Leaf Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/17/02 8:23:02 PM

662. "IA02E1592" Type of Posting: "Instrument" Status: "Proposal"
548132 Ontario Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/17/02 8:23:14 PM

663. "PB02E6023" Type of Posting: "Policy" Status: "Proposal"
Management Strategy for the Woodland Caribou Signature Site
- 12/18/02 4:00:20 PM

664. "IA02E1595" Type of Posting: "Instrument" Status: "Proposal"
Nailor Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/18/02 8:39:00 PM

665. "IA02E1596" Type of Posting: "Instrument" Status: "Proposal"
Lakeview Autobody (2001) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/18/02 8:39:05 PM

666. "IA02E1597" Type of Posting: "Instrument" Status: "Proposal"
Armstrong Cheese Company Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/18/02 8:39:14 PM

667. "IA02E1598" Type of Posting: "Instrument" Status: "Proposal"
Nibinamik First Nation, Pauls Hauling, Carter Rice ESSO Approval for discharge into the natural environment other than water (i.e. Air)
- 12/18/02 8:39:26 PM

668. "IA02E1599" Type of Posting: "Instrument" Status: "Proposal"

762822 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/18/02 8:39:28 PM

669. "IA02E1600" Type of Posting: "Instrument" Status: "Proposal"
Zebra Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 12/19/02 9:02:49 PM

670. "IA02E1601" Type of Posting: "Instrument" Status: "Proposal"
747877 Ontario Inc. (o/a Irish Creek Estates) Permit to take water
- 12/19/02 9:02:50 PM

671. "IA02E1602" Type of Posting: "Instrument" Status: "Proposal"
London Hydro Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/19/02 9:02:54 PM

672. "IB02E3080" Type of Posting: "Instrument" Status: "Proposal"
Thomas Cavanagh Construction Limited, Add, rescind, or vary a condition of a licence
- 12/19/02 9:02:58 PM

673. "IA02E1606" Type of Posting: "Instrument" Status: "Proposal"
LaPenotiere's Golf Inc. Permit to take water
- 12/20/02 2:51:01 PM

674. "IA02E1607" Type of Posting: "Instrument" Status: "Proposal"
Dupont Canada Inc. Approval for a waste disposal site.
- 12/20/02 2:51:17 PM

675. "IA02E1608" Type of Posting: "Instrument" Status: "Proposal"
COM DEV Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/20/02 2:51:31 PM

676. "PA02E0031" Type of Posting: "Policy" Status: "Proposal"
A Discussion Paper on Ontario's Clean Air Plan For Industry: Developing NOx and SO2 Emission Limits
- 12/20/02 4:24:23 PM

677. "PB02E1007" Type of Posting: "Policy" Status: "Proposal"
Amendment to Crown Land Use Direction - Selected Areas in Fort Frances and Kenora Districts
- 12/20/02 8:13:24 PM

678. "PB02E3004" Type of Posting: "Policy" Status: "Proposal"
Interim Management Approach for Big Sandy Bay (Crown Land / Wolfe Island)
- 12/20/02 8:13:26 PM

679. "IB02E3081" Type of Posting: "Instrument" Status: "Proposal"
Vicdom Sand & Gravel (Ontario) Limited, Approval of licensee proposed amendment to a site plan
- 12/20/02 8:13:28 PM

680. "IA02E1610" Type of Posting: "Instrument" Status: "Proposal"
Kagawong Power Inc. Permit to take water
- 12/20/02 9:38:12 PM

681. "IA02E1611" Type of Posting: "Instrument" Status: "Proposal"
Rupert Acres Limited Permit to take water
- 12/20/02 9:38:23 PM

682. "IA02E1614" Type of Posting: "Instrument" Status: "Proposal"
Imperial Oil Ltd. Permit to take water
- 12/20/02 9:38:33 PM

683. "IA02E1615" Type of Posting: "Instrument" Status: "Proposal"
805457 Ontario Inc. Permit to take water
- 12/20/02 9:38:48 PM

684. "IA02E1616" Type of Posting: "Instrument" Status: "Proposal"
Premier's Choice Gourmet Entrées Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/23/02 8:01:21 PM

685. "IF02E3019" Type of Posting: "Instrument" Status: "Proposal"
The Town of LaSalle Approval of an Official Plan Amendment
- 12/23/02 8:01:57 PM

686. "IA02E1617" Type of Posting: "Instrument" Status: "Proposal"
St. Joseph Printing Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/24/02 5:29:49 PM

687. "IA02E1619" Type of Posting: "Instrument" Status: "Proposal"
Masterloy Products Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/24/02 5:29:52 PM

688. "IA02E1620" Type of Posting: "Instrument" Status: "Proposal"
Barrick Gold Corporation Permit to take water
- 12/30/02 6:57:51 PM

689. "IA02E1621" Type of Posting: "Instrument" Status: "Proposal"
Barrick Gold Corporation Permit to take water
- 12/30/02 6:57:52 PM

690. "IA02E1622" Type of Posting: "Instrument" Status: "Proposal"
Unimotion-Gear Approval for discharge into the natural environment other than water (i.e. Air)
- 12/30/02 6:57:53 PM

691. "IA02E1623" Type of Posting: "Instrument" Status: "Proposal"
Bill Blair Approval for discharge into the natural environment other than water (i.e. Air)
- 12/30/02 6:57:54 PM

692. "IA02E1624" Type of Posting: "Instrument" Status: "Proposal"
John Deere Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/30/02 6:57:56 PM

693. "IB02E3082" Type of Posting: "Instrument" Status: "Proposal"
Harold Sutherland Construction Ltd., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 12/30/02 6:57:58 PM

694. "IA02E1626" Type of Posting: "Instrument" Status: "Proposal"
Broadview Foundation Order for preventative measures.
- 12/30/02 8:03:17 PM

695. "IA02E1627" Type of Posting: "Instrument" Status: "Proposal"
Jerome Taylor Pontiac Buick GMC Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/30/02 8:03:26 PM

696. "IA02E1628" Type of Posting: "Instrument" Status: "Proposal"
High Strength Plates & Profiles Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/30/02 8:03:27 PM

697. "IA02E1630" Type of Posting: "Instrument" Status: "Proposal"
Frank Filice Approval for discharge into the natural environment other than water (i.e. Air)
- 12/31/02 5:37:33 PM

698. "IA02E1631" Type of Posting: "Instrument" Status: "Proposal"
Bell City Foundry (Brantford) Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 12/31/02 5:37:34 PM

699. "IA02E1632" Type of Posting: "Instrument" Status: "Proposal"
Goodyear Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/31/02 5:37:35 PM

700. "IA02E1634" Type of Posting: "Instrument" Status: "Proposal"
CE Composites Baseball Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 12/31/02 5:37:38 PM

701. "IA03E0002" Type of Posting: "Instrument" Status: "Proposal"
Linamar Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 1/2/03 8:27:37 PM

702. "IA03E0003" Type of Posting: "Instrument" Status: "Proposal"
Wentworth Mold Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/2/03 8:27:49 PM

703. "IA03E0005" Type of Posting: "Instrument" Status: "Proposal"
Angus-Palm Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/2/03 8:27:51 PM

704. "IA03E0006" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/2/03 8:27:54 PM

705. "IA03E0008" Type of Posting: "Instrument" Status: "Proposal"
James Brian Knack Permit to take water
- 1/2/03 8:27:55 PM

706. "IA03E0010" Type of Posting: "Instrument" Status: "Proposal"
Grand Niagara Golf Corporation Permit to take water
- 1/2/03 8:27:56 PM

707. "IA03E0009" Type of Posting: "Instrument" Status: "Proposal"

886998 Ontario Inc. (o/a Rolling Meadows Golf and Country Club) Permit to take water
- 1/2/03 8:27:57 PM

708. "IA03E0007" Type of Posting: "Instrument" Status: "Proposal"
Powder Coaters Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/2/03 8:27:58 PM

709. "IF03E2001" Type of Posting: "Instrument" Status: "Proposal"
The Municipality of Magnetawan Approval of an Official Plan
- 1/2/03 8:28:08 PM

710. "PA02E0023" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Acetone
- 1/3/03 3:33:33 PM

711. "PA02E0021" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Acetonitrile
- 1/3/03 3:33:40 PM

712. "PA02E0013" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Acrolein
- 1/3/03 3:33:46 PM

713. "PA02E0024" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Cyclohexane
- 1/3/03 3:33:53 PM

714. "PA02E0022" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Di(2-ethylhexyl) phthalate
- 1/3/03 3:33:59 PM

715. "PA02E0016" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Di-n-octylphthalate
- 1/3/03 3:34:05 PM

716. "PA02E0015" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Hexamethylene diisocyanate
- 1/3/03 3:34:12 PM

717. "PA02E0012" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Hydrogen cyanide
- 1/3/03 3:34:18 PM

718. "PA02E0019" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Hydrogen fluoride
- 1/3/03 3:34:25 PM

719. "PA02E0014" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Isopropanol
- 1/3/03 3:34:31 PM

720. "PA02E0011" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Methane diphenyl diisocyanate
- 1/3/03 3:34:37 PM

721. "PA02E0018" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Methyl isocyanate
 - 1/3/03 3:34:44 PM

722. "PA02E0020" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Phenol
 - 1/3/03 3:34:50 PM

723. "PA02E0010" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Toluene diisocyanate
 - 1/3/03 3:34:58 PM

724. "PA02E0017" Type of Posting: "Policy" Status: "Proposal"
Air Standard Information Draft for Vinyl chloride
 - 1/3/03 3:35:04 PM

725. "IA03E0011" Type of Posting: "Instrument" Status: "Proposal"
Crane Valve Group Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/3/03 8:20:24 PM

726. "IA03E0012" Type of Posting: "Instrument" Status: "Proposal"
402793 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/3/03 8:20:25 PM

727. "IA03E0013" Type of Posting: "Instrument" Status: "Proposal"
Boeing Canada Technology Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/3/03 8:20:26 PM

728. "PB00E1006" Type of Posting: "Policy" Status: "Proposal"
Aulneau Peninsula Enhanced Wildlife Management Plan
 - 1/3/03 8:20:33 PM

729. "IA03E0016" Type of Posting: "Instrument" Status: "Proposal"
General Electric Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/6/03 9:32:10 PM

730. "IA03E0017" Type of Posting: "Instrument" Status: "Proposal"
Lynn & Gordon Gehring Permit to take water
 - 1/6/03 9:32:11 PM

731. "IA03E0018" Type of Posting: "Instrument" Status: "Proposal"
Mintech Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/7/03 8:32:57 PM

732. "IA03E0019" Type of Posting: "Instrument" Status: "Proposal"
Inco Limited Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/7/03 8:32:59 PM

733. "IA02E1561" Type of Posting: "Instrument" Status: "Proposal"
Canadian Pacific Railway Company Order for remedial work.
 - 1/7/03 8:33:07 PM

734. "IA03E0021" Type of Posting: "Instrument" Status: "Proposal"
Leroux Steel Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/7/03 8:33:25 PM

735. "IA03E0022" Type of Posting: "Instrument" Status: "Proposal"
Lear Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 1/8/03 8:41:43 PM

736. "IA03E0023" Type of Posting: "Instrument" Status: "Proposal"
Dofasco Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/8/03 8:41:48 PM

737. "IA03E0027" Type of Posting: "Instrument" Status: "Proposal"
Airboss of America Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/8/03 8:42:06 PM

738. "IA03E0024" Type of Posting: "Instrument" Status: "Proposal"
Victor Alfano Jr. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/8/03 8:42:07 PM

739. "IA03E0025" Type of Posting: "Instrument" Status: "Proposal"
ABC Automotive Products Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/8/03 8:42:08 PM

740. "IA03E0026" Type of Posting: "Instrument" Status: "Proposal"
Canadian Gypsum Company Inc. Approval for a waste disposal site.
- 1/8/03 8:42:09 PM

741. "IB03E3001" Type of Posting: "Instrument" Status: "Proposal"
Blueland Farms Ltd., Approval of licensee proposed amendment to a site plan
- 1/8/03 8:42:10 PM

742. "IA03E0028" Type of Posting: "Instrument" Status: "Proposal"
Global Waste Services Inc. Approval for sewage works
- 1/9/03 8:25:17 PM

743. "IA03E0029" Type of Posting: "Instrument" Status: "Proposal"
King Recycling & Waste Disposal Inc. Approval for sewage works
- 1/9/03 8:25:18 PM

744. "IA03E0030" Type of Posting: "Instrument" Status: "Proposal"
Dofasco Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/9/03 8:25:19 PM

745. "IA03E0031" Type of Posting: "Instrument" Status: "Proposal"
Canada Bread Company, Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/9/03 8:25:20 PM

746. "IA03E0032" Type of Posting: "Instrument" Status: "Proposal"
Galbocca Fixtures Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/9/03 8:25:22 PM

747. "IA03E0033" Type of Posting: "Instrument" Status: "Proposal"
Ben Hokum & Son Limited Permit to take water
- 1/9/03 8:25:23 PM

748. "IA03E0034" Type of Posting: "Instrument" Status: "Proposal"
James Dick Construction Limited Permit to take water
- 1/9/03 8:25:24 PM

749. "IA03E0035" Type of Posting: "Instrument" Status: "Proposal"
Faurecia Automotive Seating Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/9/03 8:25:25 PM

750. "IB03E3002" Type of Posting: "Instrument" Status: "Proposal"
Blueland Farms Ltd., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 1/9/03 8:25:31 PM

751. "IA02E1118" Type of Posting: "Instrument" Status: "Proposal"
BASF Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/10/03 8:03:09 PM

752. "IA03E0038" Type of Posting: "Instrument" Status: "Proposal"
Colortech Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/10/03 8:03:13 PM

753. "IA03E0040" Type of Posting: "Instrument" Status: "Proposal"
1378715 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/10/03 8:03:15 PM

754. "IA03E0042" Type of Posting: "Instrument" Status: "Proposal"
Petro-Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 1/10/03 8:03:17 PM

755. "IA03E0045" Type of Posting: "Instrument" Status: "Proposal"
Highwood Resources Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/10/03 8:03:20 PM

756. "IB03E3004" Type of Posting: "Instrument" Status: "Proposal"
Livingston Trucking & Excavating Inc., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 1/10/03 8:03:52 PM

757. "IA03E0046" Type of Posting: "Instrument" Status: "Proposal"
Michael & Vivian LaCroix Permit to take water
- 1/13/03 6:26:38 PM

758. "IA03E0047" Type of Posting: "Instrument" Status: "Proposal"
Ainsdale Golf Course Ltd Permit to take water
- 1/13/03 6:26:39 PM

759. "IA03E0049" Type of Posting: "Instrument" Status: "Proposal"
3M Canada Company Approval for discharge into the natural environment other than water (i.e. Air)
- 1/13/03 6:26:41 PM

760. "IA03E0050" Type of Posting: "Instrument" Status: "Proposal"
Sherwin-Williams Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/14/03 8:06:26 PM

761. "IA03E0051" Type of Posting: "Instrument" Status: "Proposal"
Siemens VDO Automotive Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/14/03 8:06:27 PM

762. "IA03E0054" Type of Posting: "Instrument" Status: "Proposal"
Smiths Construction Company Arnprior Limited Permit to take water
- 1/14/03 8:06:53 PM

763. "IA03E0055" Type of Posting: "Instrument" Status: "Proposal"
Strathcona Paper Company, a division of Roman Corporation Limited Permit to take water
- 1/14/03 8:06:54 PM

764. "IA03E0056" Type of Posting: "Instrument" Status: "Proposal"
Nut Island Farms Ltd., and Gary Rolczewski Permit to take water
- 1/14/03 8:06:55 PM

765. "IA03E0057" Type of Posting: "Instrument" Status: "Proposal"
Mega-C Power Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 1/14/03 8:06:56 PM

766. "IA03E0058" Type of Posting: "Instrument" Status: "Proposal"
Bale-Eze Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/14/03 8:06:57 PM

767. "IA03E0059" Type of Posting: "Instrument" Status: "Proposal"
Fleet Industries Limited Permit to take water
- 1/14/03 8:06:58 PM

768. "IA03E0060" Type of Posting: "Instrument" Status: "Proposal"
De Corso Enterprises Permit to take water
- 1/14/03 8:06:59 PM

769. "IB03E2001" Type of Posting: "Instrument" Status: "Proposal"
Pioneer Construction Inc., Approval of licensee proposed amendment to a site plan
- 1/14/03 8:07:01 PM

770. "IA02E1548" Type of Posting: "Instrument" Status: "Proposal"
Bowater Canadian Forest Products Inc Order for remedial work.
- 1/15/03 1:11:44 PM

771. "IA02E1609" Type of Posting: "Instrument" Status: "Proposal"
Kim Bradley Ogilvie operating as Evergreen Recycling Approval for a waste disposal site.
- 1/15/03 4:49:55 PM

772. "RA03E0001" Type of Posting: "Regulation" Status: "Proposal"
New Drinking Water Regulation under the Safe Drinking Water Act, 2002
- 1/15/03 6:11:06 PM

773. "IA02E1070" Type of Posting: "Instrument" Status: "Proposal"
Woodbridge Foam Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 1/15/03 7:56:15 PM

774. "IA03E0061" Type of Posting: "Instrument" Status: "Proposal"
De Corso Enterprises Permit to take water
- 1/15/03 7:56:18 PM

775. "IA03E0062" Type of Posting: "Instrument" Status: "Proposal"
A.G. Simpson Co. Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/15/03 7:56:19 PM

776. "IA03E0063" Type of Posting: "Instrument" Status: "Proposal"
Spar Aerospace Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/15/03 7:56:20 PM

777. "IA03E0064" Type of Posting: "Instrument" Status: "Proposal"
Dow Chemical Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/15/03 7:56:21 PM

778. "IA03E0065" Type of Posting: "Instrument" Status: "Proposal"
Martin Grinstein Approval for a waste disposal site.
- 1/15/03 7:56:23 PM

779. "IA03E0067" Type of Posting: "Instrument" Status: "Proposal"
Metrican Stamping Co. Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/15/03 7:56:25 PM

780. "IA03E0068" Type of Posting: "Instrument" Status: "Proposal"
Ranger Metal Products Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/15/03 7:56:26 PM

781. "IA03E0070" Type of Posting: "Instrument" Status: "Proposal"
Thomas Cavanagh Construction Limited Approval for sewage works
- 1/16/03 8:14:43 PM

782. "IA03E0073" Type of Posting: "Instrument" Status: "Proposal"
Gamma-Dynacare Leasing Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 1/16/03 8:14:47 PM

783. "IA03E0075" Type of Posting: "Instrument" Status: "Proposal"
425723 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/17/03 8:05:48 PM

784. "IA03E0076" Type of Posting: "Instrument" Status: "Proposal"
Marks Brothers Auto Body Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/17/03 8:05:49 PM

785. "IA03E0077" Type of Posting: "Instrument" Status: "Proposal"

Adventus Remediation Technologies Inc. Approval for a waste disposal site.
- 1/17/03 8:06:20 PM

786. "IA03E0078" Type of Posting: "Instrument" Status: "Proposal"
HGC Management Inc. Approval for a waste disposal site.
- 1/17/03 8:06:41 PM

787. "IA03E0079" Type of Posting: "Instrument" Status: "Proposal"
William's Landing Cottage Owners Association Permit to take water
- 1/17/03 8:06:42 PM

788. "IA03E0080" Type of Posting: "Instrument" Status: "Proposal"
Knoll North America Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/17/03 8:06:43 PM

789. "IA03E0081" Type of Posting: "Instrument" Status: "Proposal"
Trent Chevrolet Geo Oldsmobile Cadillac Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/17/03 8:06:44 PM

790. "IB03E3005" Type of Posting: "Instrument" Status: "Proposal"
L 82 Construction Limited, Approval of licensee proposed amendment to a site plan
- 1/17/03 8:06:45 PM

791. "IB03E3006" Type of Posting: "Instrument" Status: "Proposal"
L 82 Construction Limited, Approval of licensee proposed amendment to a site plan
- 1/17/03 8:06:46 PM

792. "IA03E0091" Type of Posting: "Instrument" Status: "Proposal"
Inco Ltd. Permit to take water
- 1/20/03 8:09:32 PM

793. "IA03E0083" Type of Posting: "Instrument" Status: "Proposal"
Clean Harbors Canada, Inc. Approval for sewage works
- 1/20/03 8:09:33 PM

794. "IA03E0084" Type of Posting: "Instrument" Status: "Proposal"
2010190 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/20/03 8:09:35 PM

795. "IA03E0085" Type of Posting: "Instrument" Status: "Proposal"
Schur's Automotive Repairs Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/20/03 8:09:36 PM

796. "IA03E0086" Type of Posting: "Instrument" Status: "Proposal"
Gannon's Auto Body Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/20/03 8:09:37 PM

797. "IA03E0087" Type of Posting: "Instrument" Status: "Proposal"
Hurst Auto Body Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/20/03 8:09:39 PM

798. "IA03E0088" Type of Posting: "Instrument" Status: "Proposal"
Top Quality Collision and Refinishing Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/20/03 8:09:40 PM

799. "IA03E0089" Type of Posting: "Instrument" Status: "Proposal"
Life Comfort Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/20/03 8:09:44 PM

800. "IA03E0090" Type of Posting: "Instrument" Status: "Proposal"
Culligan Springs Ltd Permit to take water
- 1/20/03 8:09:45 PM

801. "IA03E0092" Type of Posting: "Instrument" Status: "Proposal"
Urban Capital (York) Inc. Permit to take water
- 1/21/03 7:58:09 PM

802. "IA03E0093" Type of Posting: "Instrument" Status: "Proposal"
CBA Rideau (Stittsville) Ltd. Permit to take water
- 1/21/03 7:58:11 PM

803. "IA03E0094" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc. Permit to take water
- 1/21/03 7:58:12 PM

804. "IA03E0095" Type of Posting: "Instrument" Status: "Proposal"
Wigamog Inn Resort Permit to take water
- 1/21/03 7:58:13 PM

805. "IA03E0096" Type of Posting: "Instrument" Status: "Proposal"
Loch Lomond Ski Area Permit to take water
- 1/21/03 7:58:14 PM

806. "IA03E0099" Type of Posting: "Instrument" Status: "Proposal"
Chemical Vapour Metal Refining Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/21/03 7:58:17 PM

807. "IA03E0100" Type of Posting: "Instrument" Status: "Proposal"
Teston View Holdings Inc. Approval for a waste disposal site.
- 1/21/03 7:58:18 PM

808. "IA03E0102" Type of Posting: "Instrument" Status: "Proposal"
Plating Performance Products Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/21/03 7:58:20 PM

809. "IA03E0103" Type of Posting: "Instrument" Status: "Proposal"
Specialty Coatings (Brantford) Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/21/03 7:58:21 PM

810. "IA03E0104" Type of Posting: "Instrument" Status: "Proposal"

CCL Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/21/03 7:58:23 PM

811. "RB03E6001" Type of Posting: "Regulation" Status: "Proposal"
Amendment to deer archery seasons in Wildlife Management Units 54 and 56 in Southcentral Ontario
- 1/21/03 7:58:30 PM

812. "RB03E6002" Type of Posting: "Regulation" Status: "Proposal"
Amendment to O. Reg. 670/98 (Open Seasons-Wildlife) to expand the open season for gray, black and fox squirrels in Wildlife Management Units (WMUs) 93 and 94
- 1/21/03 7:58:32 PM

813. "IA03E0105" Type of Posting: "Instrument" Status: "Proposal"
Baxter Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 1/22/03 8:54:05 PM

814. "PB03E1001" Type of Posting: "Policy" Status: "Proposal"
Black Bay Peninsula Enhanced Management Area Strategy – Invitation to Participate
- 1/22/03 8:54:06 PM

815. "IB03E3003" Type of Posting: "Instrument" Status: "Proposal"
Universal Sand and Gravel Ltd., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 1/22/03 8:54:10 PM

816. "IB03E3008" Type of Posting: "Instrument" Status: "Proposal"
Vinemount Quarries Division, Waterford Sand & Gravel Limited, Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 1/22/03 8:54:12 PM

817. "IB03E3009" Type of Posting: "Instrument" Status: "Proposal"
Township of Perth East, Approval of licensee proposed amendment to a site plan
- 1/22/03 8:54:13 PM

818. "IA02E0454" Type of Posting: "Instrument" Status: "Proposal"
Waterville TG Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/23/03 7:44:31 PM

819. "IA03E0106" Type of Posting: "Instrument" Status: "Proposal"
Quality Machining & Metalworks Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/23/03 7:44:33 PM

820. "IA03E0107" Type of Posting: "Instrument" Status: "Proposal"
1125838 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/23/03 7:44:39 PM

821. "IA03E0108" Type of Posting: "Instrument" Status: "Proposal"
Toromont Industries Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/23/03 7:44:40 PM

822. "IA03E0109" Type of Posting: "Instrument" Status: "Proposal"

Polywheels Manufacturing Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/23/03 7:44:41 PM

823. "IA03E0110" Type of Posting: "Instrument" Status: "Proposal"
Capital Environmental Resource Inc. Approval for a waste disposal site.
 - 1/23/03 7:44:42 PM

824. "IA03E0111" Type of Posting: "Instrument" Status: "Proposal"
1270831 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/23/03 7:44:43 PM

825. "IA03E0112" Type of Posting: "Instrument" Status: "Proposal"
William Gordon Bacon Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/23/03 7:44:44 PM

826. "IA03E0113" Type of Posting: "Instrument" Status: "Proposal"
Neudorf Stamping Corporation Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/23/03 7:44:45 PM

827. "IA03E0114" Type of Posting: "Instrument" Status: "Proposal"
Canadian General Tower Limited Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/23/03 7:44:49 PM

828. "IA03E0115" Type of Posting: "Instrument" Status: "Proposal"
Danford Construction Limited Permit to take water
 - 1/23/03 7:44:50 PM

829. "IA03E0116" Type of Posting: "Instrument" Status: "Proposal"
Veltri Metal Products Co. Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/23/03 7:44:51 PM

830. "IA03E0117" Type of Posting: "Instrument" Status: "Proposal"
Saint-Gobain Technical Fabrics Canada, Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/23/03 7:44:52 PM

831. "IA03E0119" Type of Posting: "Instrument" Status: "Proposal"
Burlington Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air)
 - 1/23/03 7:44:55 PM

832. "IT03E0022" Type of Posting: "Instrument" Status: "Proposal"
The Municipality of Northern Bruce Peninsula Application for variances from the TSS Act, LFH Reg. 217/01
 - 1/23/03 7:45:00 PM

833. "IA03E0121" Type of Posting: "Instrument" Status: "Proposal"
Miller Golf Design Group Inc. Permit to take water
 - 1/24/03 7:48:11 PM

834. "IA03E0122" Type of Posting: "Instrument" Status: "Proposal"

Court Valve Company Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/24/03 7:48:12 PM

835. "IA03E0123" Type of Posting: "Instrument" Status: "Proposal"
Northern Harvests Inc. Approval for a waste disposal site.
- 1/24/03 7:48:14 PM

836. "IA03E0124" Type of Posting: "Instrument" Status: "Proposal"
Liffey Custom Coatings Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/24/03 7:48:15 PM

837. "IA03E0126" Type of Posting: "Instrument" Status: "Proposal"
General Chemical Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/24/03 7:48:17 PM

838. "IT03E0023" Type of Posting: "Instrument" Status: "Proposal"
1450928 Ontario Inc. Application for variances from the TSS Act, LFH Reg. 217/01
- 1/24/03 7:48:37 PM

839. "IA03E0127" Type of Posting: "Instrument" Status: "Proposal"
Harbour Remediation & Transfer Inc. Approval for a waste disposal site.
- 1/27/03 7:55:34 PM

840. "IA03E0128" Type of Posting: "Instrument" Status: "Proposal"
Border City Collision Service Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/27/03 7:55:35 PM

841. "IA03E0129" Type of Posting: "Instrument" Status: "Proposal"
Inland Technologies Canada Incorporated Approval for a waste disposal site.
- 1/27/03 7:55:36 PM

842. "IA03E0130" Type of Posting: "Instrument" Status: "Proposal"
Kord Products Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/27/03 7:55:37 PM

843. "IA03E0131" Type of Posting: "Instrument" Status: "Proposal"
Ronal Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/27/03 7:55:38 PM

844. "IA03E0132" Type of Posting: "Instrument" Status: "Proposal"
David W. Ayotte Approval for discharge into the natural environment other than water (i.e. Air)
- 1/27/03 7:55:39 PM

845. "IA03E0133" Type of Posting: "Instrument" Status: "Proposal"
Neptunus Yachts Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/27/03 7:55:40 PM

846. "IA03E0134" Type of Posting: "Instrument" Status: "Proposal"
Samuel Manu-Tech Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/27/03 7:55:42 PM

847. "IA03E0135" Type of Posting: "Instrument" Status: "Proposal"

Professional Collision Clinic Approval for discharge into the natural environment other than water (i.e. Air)
- 1/27/03 7:55:43 PM

848. "IF03E3001" Type of Posting: "Instrument" Status: "Proposal"
The Town of Lakeshore Approval of an Official Plan Amendment
- 1/27/03 7:55:51 PM

849. "PB02E6018" Type of Posting: "Policy" Status: "Proposal"
Management Strategy for the Algoma Headwaters Signature Site
- 1/27/03 8:19:24 PM

850. "IA03E0136" Type of Posting: "Instrument" Status: "Proposal"
Direct Line Environmental Services Inc. Approval for a waste disposal site.
- 1/28/03 2:59:49 PM

851. "IF03E3002" Type of Posting: "Instrument" Status: "Proposal"
The Town of Essex Approval of an Official Plan Amendment
- 1/28/03 8:38:10 PM

852. "IA03E0137" Type of Posting: "Instrument" Status: "Proposal"
Grandview Park Limited Permit to take water
- 1/29/03 8:23:23 PM

853. "IA03E0138" Type of Posting: "Instrument" Status: "Proposal"
Northview Collision Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/29/03 8:23:24 PM

854. "IA03E0139" Type of Posting: "Instrument" Status: "Proposal"
Crown Cork & Seal Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/29/03 8:23:25 PM

855. "IA03E0140" Type of Posting: "Instrument" Status: "Proposal"
Camco Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/29/03 8:23:27 PM

856. "IA03E0141" Type of Posting: "Instrument" Status: "Proposal"
Annandale Dodge Chrysler Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/29/03 8:23:28 PM

857. "IA03E0142" Type of Posting: "Instrument" Status: "Proposal"
Gary Cullen Pontiac Buick Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/29/03 8:23:29 PM

858. "IA03E0143" Type of Posting: "Instrument" Status: "Proposal"
Lempiala Sand and Gravel Ltd. Permit to take water
- 1/29/03 8:23:30 PM

859. "IA03E0144" Type of Posting: "Instrument" Status: "Proposal"
Oak Hills Golf Course/Golf Management Corporation Permit to take water
- 1/29/03 8:23:31 PM

860. "IA03E0145" Type of Posting: "Instrument" Status: "Proposal"
Keiper Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/29/03 8:23:32 PM

861. "IA03E0146" Type of Posting: "Instrument" Status: "Proposal"
Clean Harbors Canada, Inc. Approval for sewage works
- 1/29/03 8:23:33 PM

862. "IA03E0147" Type of Posting: "Instrument" Status: "Proposal"
Filamat Composites Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/29/03 8:23:34 PM

863. "IA03E0148" Type of Posting: "Instrument" Status: "Proposal"
Waterloo Furniture Components Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/29/03 8:23:35 PM

864. "IA03E0149" Type of Posting: "Instrument" Status: "Proposal"
Titan Tool & Die Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/29/03 8:23:37 PM

865. "IA03E0150" Type of Posting: "Instrument" Status: "Proposal"
Sandy Beach Resort & Trailer Park Ltd. Permit to take water
- 1/29/03 8:23:38 PM

866. "IB03E3010" Type of Posting: "Instrument" Status: "Proposal"
Belwood Aggregates Ltd., Add, rescind, or vary a condition of a licence
- 1/29/03 8:23:41 PM

867. "IB03E3011" Type of Posting: "Instrument" Status: "Proposal"
Reid's Heritage Homes Limited, Add, rescind, or vary a condition of a licence
- 1/29/03 8:23:42 PM

868. "IB03E3012" Type of Posting: "Instrument" Status: "Proposal"
St. Marys Cement Inc. (Canada), Add, rescind, or vary a condition of a licence
- 1/29/03 8:23:43 PM

869. "IB03E3013" Type of Posting: "Instrument" Status: "Proposal"
Reid's Heritage Homes Limited, Requirement that a licensee amend site plan
- 1/29/03 8:23:44 PM

870. "IB03E3014" Type of Posting: "Instrument" Status: "Proposal"
Walker Brothers Quarries, Approval of licensee proposed amendment to a site plan
- 1/29/03 8:23:45 PM

871. "IB03E3015" Type of Posting: "Instrument" Status: "Proposal"
Walker Brothers Quarries, Approval of licensee proposed amendment to a site plan
- 1/29/03 8:23:46 PM

872. "IA02E0134" Type of Posting: "Instrument" Status: "Proposal"
Pineland Greens Golf CLub Permit to take water
- 1/29/03 8:39:15 PM

873. "IA03E0120" Type of Posting: "Instrument" Status: "Proposal"

PMT Industries Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/29/03 8:39:19 PM

874. "IA03E0151" Type of Posting: "Instrument" Status: "Proposal"
693316 Ontario Limited Permit to take water
- 1/30/03 8:18:39 PM

875. "IA03E0152" Type of Posting: "Instrument" Status: "Proposal"
Intier Automotive Inc. operating as Slide-Master Approval for discharge into the natural environment other than water (i.e. Air)
- 1/30/03 8:18:40 PM

876. "IA03E0153" Type of Posting: "Instrument" Status: "Proposal"
Casco Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/30/03 8:18:41 PM

877. "IA03E0154" Type of Posting: "Instrument" Status: "Proposal"
Fleetwood Fine Furniture Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/30/03 8:18:43 PM

878. "IA03E0156" Type of Posting: "Instrument" Status: "Proposal"
John B. Grant Holdings Inc. Permit to take water
- 1/30/03 8:18:45 PM

879. "IA03E0157" Type of Posting: "Instrument" Status: "Proposal"
Drain Bros. Excavating Ltd. Permit to take water
- 1/30/03 8:18:46 PM

880. "IA03E0158" Type of Posting: "Instrument" Status: "Proposal"
708771 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/30/03 8:18:47 PM

881. "IA03E0159" Type of Posting: "Instrument" Status: "Proposal"
Ledstar Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/30/03 8:18:48 PM

882. "IA03E0160" Type of Posting: "Instrument" Status: "Proposal"
Dibblee Construction Limited Approval for sewage works
- 1/30/03 8:18:49 PM

883. "IA03E0161" Type of Posting: "Instrument" Status: "Proposal"
Consoltex Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/31/03 7:49:22 PM

884. "IA03E0162" Type of Posting: "Instrument" Status: "Proposal"
Seaforth Creamery Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 1/31/03 7:49:23 PM

885. "IA03E0163" Type of Posting: "Instrument" Status: "Proposal"
Atotech Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 1/31/03 7:49:24 PM

886. "IA03E0164" Type of Posting: "Instrument" Status: "Proposal"

Stauffer Motors Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/3/03 8:01:57 PM

887. "PA03E0001" Type of Posting: "Policy" Status: "Proposal"
Proposal to Establish an Ontario Drinking Water Standard for Cyanobacterial Toxins (Microcystin LR)
- 2/3/03 8:02:39 PM

888. "PA03E0002" Type of Posting: "Policy" Status: "Proposal"
Proposal to Establish an Ontario Drinking Water Standard for Antimony
- 2/3/03 8:02:42 PM

889. "IA03E0097" Type of Posting: "Instrument" Status: "Proposal"
1053115 Ontario Inc. o/a Spring Water Ice Ltd. Permit to take water
- 2/3/03 8:14:49 PM

890. "IA03E0170" Type of Posting: "Instrument" Status: "Proposal"
Kandalore Camp Co. Ltd. Permit to take water
- 2/4/03 8:01:58 PM

891. "IA03E0165" Type of Posting: "Instrument" Status: "Proposal"
MJP Kitchens & Millwork Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/4/03 8:01:59 PM

892. "IA03E0166" Type of Posting: "Instrument" Status: "Proposal"
Bluewater Environmental (Point Edward) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/4/03 8:02:12 PM

893. "IA03E0167" Type of Posting: "Instrument" Status: "Proposal"
Plasti-Kote Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/4/03 8:02:19 PM

894. "IA03E0168" Type of Posting: "Instrument" Status: "Proposal"
Thomas Cavanagh Construction Limited, Permit to take water
- 2/4/03 8:02:54 PM

895. "IA03E0169" Type of Posting: "Instrument" Status: "Proposal"
Mariano Cirullo Investments Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/4/03 8:02:55 PM

896. "IA03E0171" Type of Posting: "Instrument" Status: "Proposal"
Dupont Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/5/03 8:07:10 PM

897. "IA03E0172" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/5/03 8:07:11 PM

898. "IA03E0173" Type of Posting: "Instrument" Status: "Proposal"
SMTC Manufacturing Corporation of Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 2/5/03 8:07:13 PM

899. "IF03E0003" Type of Posting: "Instrument" Status: "Proposal"
Barry Adams Fife, A proposal for provisional consent (no Official Plan in Place)
- 2/5/03 8:07:25 PM

900. "IA03E0174" Type of Posting: "Instrument" Status: "Proposal"
A. Schulman Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/6/03 8:03:35 PM

901. "IA03E0176" Type of Posting: "Instrument" Status: "Proposal"
Maple Lodge Farms Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/6/03 8:03:36 PM

902. "IA03E0177" Type of Posting: "Instrument" Status: "Proposal"
Wallcrown Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/6/03 8:03:37 PM

903. "IA03E0178" Type of Posting: "Instrument" Status: "Proposal"
Apotex Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/6/03 8:03:38 PM

904. "IA03E0179" Type of Posting: "Instrument" Status: "Proposal"
ONDEO Nalco Canada Co. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/6/03 8:03:39 PM

905. "IA03E0180" Type of Posting: "Instrument" Status: "Proposal"
Inco Ltd. Permit to take water
- 2/6/03 8:03:40 PM

906. "IA03E0181" Type of Posting: "Instrument" Status: "Proposal"
Canadian Pacific Railway Company Permit to take water
- 2/6/03 8:03:42 PM

907. "IF03E3004" Type of Posting: "Instrument" Status: "Proposal"
The Township of Malahide, Approval of an Official Plan Amendment
- 2/6/03 8:03:46 PM

908. "IT03E0003" Type of Posting: "Instrument" Status: "Proposal"
Simcoe District Co-operative Services Application for variances from the TSS Act, LFH Reg. 217/01
- 2/6/03 8:03:48 PM

909. "IA03E0182" Type of Posting: "Instrument" Status: "Proposal"
Lafleche Environmental Inc. Approval for a waste disposal site.
- 2/7/03 7:54:48 PM

910. "IA03E0183" Type of Posting: "Instrument" Status: "Proposal"
National Research Council of Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 2/7/03 7:55:05 PM

911. "IB03E2002" Type of Posting: "Instrument" Status: "Proposal"
Sean Heeran, Issuance of a Class B licence to remove 20,000 tonnes or less of aggregate annually from a pit or quarry
- 2/7/03 7:55:42 PM

912. "IA03E0185" Type of Posting: "Instrument" Status: "Proposal"
Kinshofer Liftall Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/10/03 8:09:16 PM

913. "IA03E0187" Type of Posting: "Instrument" Status: "Proposal"
The Ridge at Manitou Inc. Permit to take water
- 2/10/03 8:09:18 PM

914. "IF03E0004" Type of Posting: "Instrument" Status: "Proposal"
Richard and Bonnie Mitchelson, A proposal for provisional consent (no Official Plan in Place)
- 2/11/03 3:35:18 PM

915. "IA03E0188" Type of Posting: "Instrument" Status: "Proposal"
1459725 Ontario Inc. o/a Rebel Creek Golf Course Permit to take water
- 2/11/03 8:01:40 PM

916. "IA03E0189" Type of Posting: "Instrument" Status: "Proposal"
Ethier Sand and Gravel Ltd. Permit to take water
- 2/11/03 8:01:41 PM

917. "IA03E0190" Type of Posting: "Instrument" Status: "Proposal"
Noble Metal Processing Canada, Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/11/03 8:01:42 PM

918. "IA03E0191" Type of Posting: "Instrument" Status: "Proposal"
J.M.W. Automotive Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/11/03 8:01:43 PM

919. "IA03E0192" Type of Posting: "Instrument" Status: "Proposal"
861197 Ontario Ltd. Permit to take water
- 2/11/03 8:01:44 PM

920. "IA03E0193" Type of Posting: "Instrument" Status: "Proposal"
LC IOI Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/11/03 8:01:46 PM

921. "IA03E0194" Type of Posting: "Instrument" Status: "Proposal"
Bombardier Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/11/03 8:01:47 PM

922. "IA03E0195" Type of Posting: "Instrument" Status: "Proposal"
Inco Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/11/03 8:01:48 PM

923. "IB03E3017" Type of Posting: "Instrument" Status: "Proposal"
Leslie Cruikshank, Cruickshank Construction Company Limited, Add, rescind, or vary a condition of a licence
- 2/11/03 8:01:53 PM

924. "IB03E2003" Type of Posting: "Instrument" Status: "Proposal"
Raymond and Eugene Maltais, Revocation of a licence
- 2/12/03 7:55:30 PM

925. "IB03E3016" Type of Posting: "Instrument" Status: "Proposal"
Donald Moffatt, Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 2/12/03 7:55:31 PM

926. "IB03E3018" Type of Posting: "Instrument" Status: "Proposal"
Graham Bros. Aggregates Limited, Approval of licensee proposed amendment to a site plan
- 2/12/03 7:55:32 PM

927. "IB03E3019" Type of Posting: "Instrument" Status: "Proposal"
2004295 Ontario Inc., c/o Lafarge Canada Inc., Approval of licensee proposed amendment to a site plan
- 2/12/03 7:55:33 PM

928. "IB03E3020" Type of Posting: "Instrument" Status: "Proposal"
Eisses Bros. Ltd., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 2/12/03 7:55:34 PM

929. "IB03E3021" Type of Posting: "Instrument" Status: "Proposal"
Mr. James Lamb, Issuance of a Class B licence to remove 20,000 tonnes or less of aggregate annually from a pit or quarry
- 2/12/03 7:55:36 PM

930. "IB03E3023" Type of Posting: "Instrument" Status: "Proposal"
Fowler Construction Company Ltd., Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 2/12/03 7:55:37 PM

931. "IB03E3022" Type of Posting: "Instrument" Status: "Proposal"
Mr. Lloyd Squire, Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 2/12/03 7:55:38 PM

932. "IB03E2004" Type of Posting: "Instrument" Status: "Proposal"
Ron Spurway, Revocation of a licence
- 2/12/03 7:55:39 PM

933. "IB03E2005" Type of Posting: "Instrument" Status: "Proposal"
Ken Pierman Contracting Inc., Revocation of a licence
- 2/12/03 7:55:40 PM

934. "IB03E2006" Type of Posting: "Instrument" Status: "Proposal"
John McCauley, Revocation of a licence
- 2/12/03 7:55:41 PM

935. "IB03E2007" Type of Posting: "Instrument" Status: "Proposal"
Mark Anthony Wierzbicki, Revocation of a licence
- 2/12/03 7:55:42 PM

936. "IB03E2008" Type of Posting: "Instrument" Status: "Proposal"
Robert Case and Carole Case o/a Case Construction, Revocation of a licence
- 2/12/03 7:55:43 PM

937. "IB03E2009" Type of Posting: "Instrument" Status: "Proposal"
Donald Caswell, Revocation of a licence
- 2/12/03 7:55:44 PM

938. "IB03E2010" Type of Posting: "Instrument" Status: "Proposal"
Don Gilbertson, Revocation of a licence
- 2/12/03 7:55:46 PM

939. "IB03E2011" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 2/12/03 7:55:47 PM

940. "IB03E2012" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 2/12/03 7:55:48 PM

941. "IB03E2013" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 2/12/03 7:55:49 PM

942. "IB03E2014" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 2/12/03 7:55:50 PM

943. "IB03E2015" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 2/12/03 7:55:52 PM

944. "IB03E2016" Type of Posting: "Instrument" Status: "Proposal"
Bill Tait, Revocation of a licence
- 2/12/03 7:55:53 PM

945. "IB03E2018" Type of Posting: "Instrument" Status: "Proposal"
Raymond Belkosky, Revocation of a licence
- 2/12/03 7:55:55 PM

946. "IB03E2019" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 2/12/03 7:55:56 PM

947. "IB03E2020" Type of Posting: "Instrument" Status: "Proposal"
Oscar Jones, Revocation of a licence
- 2/12/03 7:55:57 PM

948. "IB03E2021" Type of Posting: "Instrument" Status: "Proposal"
Rintala Construction Company Limited, Revocation of a licence
- 2/12/03 7:55:58 PM

949. "IB03E2022" Type of Posting: "Instrument" Status: "Proposal"
The Township of Sables-Spanish Rivers Revocation of a licence
- 2/12/03 7:55:59 PM

950. "IB03E2023" Type of Posting: "Instrument" Status: "Proposal"

Camroy Construction Limited, Revocation of a licence
- 2/12/03 7:56:01 PM

951. "IB03E2024" Type of Posting: "Instrument" Status: "Proposal"
North Star Sand and Gravel, Revocation of a licence
- 2/12/03 7:56:02 PM

952. "IB03E2025" Type of Posting: "Instrument" Status: "Proposal"
Yves Roy, Revocation of a licence
- 2/12/03 7:56:03 PM

953. "IB03E2026" Type of Posting: "Instrument" Status: "Proposal"
844238 Ontario Limited, R.E. Mailloux Construction, Revocation of a licence
- 2/12/03 7:56:04 PM

954. "IB03E2027" Type of Posting: "Instrument" Status: "Proposal"
William Alfred Land, Revocation of a licence
- 2/12/03 7:56:05 PM

955. "IB03E2028" Type of Posting: "Instrument" Status: "Proposal"
Alain Robidoux, Revocation of a licence
- 2/12/03 7:56:06 PM

956. "IF03E0006" Type of Posting: "Instrument" Status: "Proposal"
Garnet James Gabrielson A proposal for provisional consent (no Official Plan in Place)
- 2/12/03 7:56:11 PM

957. "IB03E2029" Type of Posting: "Instrument" Status: "Proposal"
Rupert Acres Limited, Revocation of a licence
- 2/13/03 1:49:03 PM

958. "IB03E2030" Type of Posting: "Instrument" Status: "Proposal"
Roddy William Granger, Revocation of a licence
- 2/13/03 1:49:04 PM

959. "IB03E2031" Type of Posting: "Instrument" Status: "Proposal"
Tom Young, Revocation of a licence
- 2/13/03 1:49:05 PM

960. "IB03E2032" Type of Posting: "Instrument" Status: "Proposal"
Gary Tranberg, Revocation of a licence
- 2/13/03 1:49:06 PM

961. "IB03E2033" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 2/13/03 1:49:07 PM

962. "IB03E2034" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 2/13/03 1:49:08 PM

963. "IB03E2035" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 2/13/03 1:49:09 PM

964. "IB03E2036" Type of Posting: "Instrument" Status: "Proposal"
David Bouchard, Revocation of a licence
- 2/13/03 1:49:10 PM

965. "IB03E2037" Type of Posting: "Instrument" Status: "Proposal"
Gary R. Shewfelt and Terry G. Shewfelt, Revocation of a licence
- 2/13/03 1:49:11 PM

966. "IB03E2038" Type of Posting: "Instrument" Status: "Proposal"
Reginald Vincent Fleming, Revocation of a licence
- 2/13/03 1:49:13 PM

967. "IB03E2039" Type of Posting: "Instrument" Status: "Proposal"
Karhi Contracting Inc., Revocation of a licence
- 2/13/03 1:49:14 PM

968. "IB03E2040" Type of Posting: "Instrument" Status: "Proposal"
Karhi Contracting Inc., Revocation of a licence
- 2/13/03 1:49:15 PM

969. "IA03E0197" Type of Posting: "Instrument" Status: "Proposal"
Abitibi-Consolidated Company of Canada Approval for discharge into the natural environment other than water (i.e. Air)
- 2/13/03 7:59:38 PM

970. "IA03E0198" Type of Posting: "Instrument" Status: "Proposal"
Charles Penstone Permit to take water
- 2/13/03 7:59:39 PM

971. "IA03E0199" Type of Posting: "Instrument" Status: "Proposal"
Timminco Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/13/03 7:59:40 PM

972. "IA03E0200" Type of Posting: "Instrument" Status: "Proposal"
Gerdau Ameristeel Cambridge Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/13/03 7:59:41 PM

973. "IA03E0201" Type of Posting: "Instrument" Status: "Proposal"
Dana Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/13/03 7:59:42 PM

974. "IA03E0202" Type of Posting: "Instrument" Status: "Proposal"
Wally's Auto Body Approval for discharge into the natural environment other than water (i.e. Air)
- 2/13/03 7:59:44 PM

975. "IA03E0203" Type of Posting: "Instrument" Status: "Proposal"
Level-Rite Systems Company Approval for discharge into the natural environment other than water (i.e. Air)
- 2/13/03 7:59:45 PM

976. "IA03E0204" Type of Posting: "Instrument" Status: "Proposal"

Dufferin Motors & Collision Centre Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/13/03 7:59:46 PM

977. "IA03E0205" Type of Posting: "Instrument" Status: "Proposal"
Philip Services Inc. Approval for a waste disposal site.
- 2/13/03 7:59:47 PM

978. "IA03E0206" Type of Posting: "Instrument" Status: "Proposal"
Grant Thornton Limited c/o Terraprobe Limited Permit to take water
- 2/13/03 7:59:48 PM

979. "IA03E0207" Type of Posting: "Instrument" Status: "Proposal"
Multipak Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/13/03 7:59:49 PM

980. "IB03E2041" Type of Posting: "Instrument" Status: "Proposal"
James Peter Owen, Revocation of a licence
- 2/13/03 7:59:51 PM

981. "IA03E0208" Type of Posting: "Instrument" Status: "Proposal"
Mark IV Industries Canada Corp. Order for preventative measures.
- 2/13/03 9:02:25 PM

982. "IA02E0781" Type of Posting: "Instrument" Status: "Proposal"
ACSYS Automotive Component Systems of Canada, Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/14/03 8:12:32 PM

983. "IA03E0209" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited Approval for sewage works
- 2/14/03 8:12:53 PM

984. "IA03E0210" Type of Posting: "Instrument" Status: "Proposal"
658388 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/14/03 8:12:54 PM

985. "RB03E6005" Type of Posting: "Regulation" Status: "Proposal"
Establishment of an open season for hunting eastern wild turkey in 2003 in Wildlife Management Units (WMUs) 62, 86A, 86B, and 94B: amendment to O. Reg. 670/98 (Open Seasons - Wildlife) made under the Fish and Wildlife Conservation Act.
- 2/14/03 8:12:55 PM

986. "IA03E0211" Type of Posting: "Instrument" Status: "Proposal"
Fort James Fiber Canada Corporation Approval for a waste disposal site.
- 2/17/03 8:13:56 PM

987. "IA03E0212" Type of Posting: "Instrument" Status: "Proposal"
Carmeuse Lime (Beachville) Ltd. Permit to take water
- 2/17/03 8:14:47 PM

988. "IA03E0213" Type of Posting: "Instrument" Status: "Proposal"

Brantford Chrysler Dodge Jeep Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/17/03 8:14:48 PM

989. "IA03E0215" Type of Posting: "Instrument" Status: "Proposal"
1519008 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/17/03 8:14:50 PM

990. "PB03E7001" Type of Posting: "Policy" Status: "Proposal"
Forest Resource Assessment Policy (DRAFT 2003)
- 2/17/03 8:14:51 PM

991. "IF03E3005" Type of Posting: "Instrument" Status: "Proposal"
The Municipality of Bayham Approval of an Official Plan Amendment
- 2/17/03 8:15:12 PM

992. "IA03E0219" Type of Posting: "Instrument" Status: "Proposal"
Puslinch Lake Conservation Association Permit to take water
- 2/18/03 8:14:37 PM

993. "IA03E0196" Type of Posting: "Instrument" Status: "Proposal"
Neil O'Reilly Permit to take water
- 2/18/03 8:39:25 PM

994. "IA03E0217" Type of Posting: "Instrument" Status: "Proposal"
Bruckmann Manufacturing Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/18/03 8:39:26 PM

995. "IA03E0218" Type of Posting: "Instrument" Status: "Proposal"
Frendel Kitchens Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/18/03 8:39:27 PM

996. "IA03E0216" Type of Posting: "Instrument" Status: "Proposal"
Brian Magee and Black Bear Ridge Permit to take water
- 2/18/03 8:39:28 PM

997. "IA03E0220" Type of Posting: "Instrument" Status: "Proposal"
Queenston Golf Club Ltd. Permit to take water
- 2/18/03 8:39:29 PM

998. "IA03E0221" Type of Posting: "Instrument" Status: "Proposal"
1468200 Ontario Limited Approval for a waste disposal site.
- 2/18/03 8:39:30 PM

999. "IA03E0222" Type of Posting: "Instrument" Status: "Proposal"
728 to 742 Bank Street Holdings Inc. Permit to take water
- 2/19/03 7:50:51 PM

1,000. "IA03E0223" Type of Posting: "Instrument" Status: "Proposal"
Tiffin Recycling Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/19/03 7:50:52 PM

1,001. "IB03E3024" Type of Posting: "Instrument" Status: "Proposal"

Erie Sand and Gravel Limited, Issuance of a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry
- 2/19/03 7:50:54 PM

1,002. "IB03E2042" Type of Posting: "Instrument" Status: "Proposal"
Bernt Gilbertson Enterprises Limited, Revocation of a licence
- 2/19/03 7:50:55 PM

1,003. "IB03E2043" Type of Posting: "Instrument" Status: "Proposal"
Camroy Construction Limited, Revocation of a licence
- 2/19/03 7:50:56 PM

1,004. "IF03E3007" Type of Posting: "Instrument" Status: "Proposal"
The Municipality of Bayham Approval of an Official Plan Amendment
- 2/20/03 7:38:35 PM

1,005. "IF03E3006" Type of Posting: "Instrument" Status: "Proposal"
The Township of Malahide, Approval of an Official Plan Amendment
- 2/20/03 7:38:43 PM

1,006. "IA03E0224" Type of Posting: "Instrument" Status: "Proposal"
Detox Environmental Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/20/03 7:42:11 PM

1,007. "IA03E0225" Type of Posting: "Instrument" Status: "Proposal"
Primrose Auto Body Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/20/03 7:42:12 PM

1,008. "IA03E0226" Type of Posting: "Instrument" Status: "Proposal"
Strataflex Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 2/20/03 7:42:14 PM

1,009. "IA03E0227" Type of Posting: "Instrument" Status: "Proposal"
Parrish & Heimbecker, Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/20/03 7:42:15 PM

1,010. "IA03E0228" Type of Posting: "Instrument" Status: "Proposal"
3182657 Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/20/03 7:42:16 PM

1,011. "IA03E0229" Type of Posting: "Instrument" Status: "Proposal"
Johnson Controls L.P. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/20/03 7:42:17 PM

1,012. "IA03E0230" Type of Posting: "Instrument" Status: "Proposal"
Delphi Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/20/03 7:42:18 PM

1,013. "IA03E0231" Type of Posting: "Instrument" Status: "Proposal"
General Motors of Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/20/03 7:42:19 PM

1,014. "IA03E0232" Type of Posting: "Instrument" Status: "Proposal"
Owens-Corning Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/20/03 7:42:20 PM

1,015. "IA03E0233" Type of Posting: "Instrument" Status: "Proposal"
TG Minto Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 2/20/03 7:42:21 PM

1,016. "IA03E0234" Type of Posting: "Instrument" Status: "Proposal"
Camisle Golf Course Permit to take water
- 2/21/03 7:59:12 PM

1,017. "IA03E0235" Type of Posting: "Instrument" Status: "Proposal"
IPC Resistors Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/21/03 7:59:13 PM

1,018. "IA03E0236" Type of Posting: "Instrument" Status: "Proposal"
Fana Burnhamthorpe Corporation Permit to take water
- 2/21/03 7:59:14 PM

1,019. "IA03E0237" Type of Posting: "Instrument" Status: "Proposal"
Chado's Autobody Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/21/03 7:59:15 PM

1,020. "IA03E0238" Type of Posting: "Instrument" Status: "Proposal"
M.J. Labelle Co. Ltd. Permit to take water
- 2/24/03 6:38:00 PM

1,021. "IA03E0239" Type of Posting: "Instrument" Status: "Proposal"
M.J. Labelle Co. Ltd. Permit to take water
- 2/24/03 6:38:22 PM

1,022. "IA03E0240" Type of Posting: "Instrument" Status: "Proposal"
M.J. Labelle Co. Ltd. Permit to take water
- 2/24/03 6:38:58 PM

1,023. "IA03E0241" Type of Posting: "Instrument" Status: "Proposal"
M.J. Labelle Co. Ltd. Permit to take water
- 2/24/03 6:38:59 PM

1,024. "IA03E0242" Type of Posting: "Instrument" Status: "Proposal"
M.J. Labelle Co. Ltd. Permit to take water
- 2/24/03 6:39:00 PM

1,025. "IA03E0243" Type of Posting: "Instrument" Status: "Proposal"
M.J. Labelle Co. Ltd. Permit to take water
- 2/24/03 6:39:01 PM

1,026. "IA03E0244" Type of Posting: "Instrument" Status: "Proposal"
JLS Autobody Approval for discharge into the natural environment other than water (i.e. Air)
- 2/24/03 6:39:02 PM

1,027. "IA02E1241" Type of Posting: "Instrument" Status: "Proposal"

Bob & Sons Autobody & Collision Approval for discharge into the natural environment other than water (i.e. Air)
- 2/24/03 7:46:47 PM

1,028. "IF03E3008" Type of Posting: "Instrument" Status: "Proposal"
The Town of Kingsville Approval of an Official Plan Amendment
- 2/24/03 7:47:00 PM

1,029. "IF03E3009" Type of Posting: "Instrument" Status: "Proposal"
The Township of Pelee Approval of an Official Plan Amendment
- 2/24/03 7:47:08 PM

1,030. "IA03E0245" Type of Posting: "Instrument" Status: "Proposal"
Placer Dome Canada Ltd. Permit to take water
- 2/25/03 7:51:27 PM

1,031. "IA03E0246" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc. Permit to take water
- 2/25/03 7:51:51 PM

1,032. "ID03E1002" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited Director acknowledges receipt of a closure plan for (re)commencing mine production
- 2/25/03 7:51:52 PM

1,033. "IA03E0247" Type of Posting: "Instrument" Status: "Proposal"
Spinic Manufacturing Co. Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/26/03 7:57:50 PM

1,034. "IA03E0248" Type of Posting: "Instrument" Status: "Proposal"
Golden Triangle Collision Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/26/03 7:57:51 PM

1,035. "IA03E0249" Type of Posting: "Instrument" Status: "Proposal"
TorPharm Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/26/03 7:57:52 PM

1,036. "IA03E0250" Type of Posting: "Instrument" Status: "Proposal"
Olympic Wholesale Bait Ltd. Permit to take water
- 2/26/03 7:57:53 PM

1,037. "IA03E0251" Type of Posting: "Instrument" Status: "Proposal"
Sharmadon Parc Permit to take water
- 2/26/03 7:57:54 PM

1,038. "IA03E0252" Type of Posting: "Instrument" Status: "Proposal"
Amec Earth & Environmental Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/26/03 7:57:55 PM

1,039. "IA03E0253" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/26/03 7:57:57 PM

1,040. "IA03E0254" Type of Posting: "Instrument" Status: "Proposal"
Dow Chemical Canada Inc. Approval for sewage works
- 2/26/03 7:57:58 PM

1,041. "IA03E0255" Type of Posting: "Instrument" Status: "Proposal"
Canadian Timken Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/26/03 7:57:59 PM

1,042. "IA03E0256" Type of Posting: "Instrument" Status: "Proposal"
Domtar Inc. Permit to take water
- 2/26/03 7:58:00 PM

1,043. "PB02E6019" Type of Posting: "Policy" Status: "Proposal"
French River Provincial Park Management Plan Amendment - Proposed Bridge Crossing
- 2/26/03 7:58:10 PM

1,044. "PB03E6003" Type of Posting: "Policy" Status: "Proposal"
Invitation to Participate: St. Raphael Signature Site Strategy Development, and the associated St Raphael Provincial Park Plan and the Miniss Enhanced Management Plan.
- 2/27/03 5:23:42 PM

1,045. "PB03E7002" Type of Posting: "Policy" Status: "Proposal"
Silviculture Guide to Managing Spruce, Fir, Birch and Aspen Mixedwoods in Ontario's Boreal Forest
- 2/27/03 5:23:49 PM

1,046. "IF03E4006" Type of Posting: "Instrument" Status: "Proposal"
Marion Flintoft and Lorne Campbell A proposal for provisional consent (no Official Plan in Place)
- 2/27/03 5:23:53 PM

1,047. "IA03E0258" Type of Posting: "Instrument" Status: "Proposal"
Bruno's Contracting Ltd. Permit to take water
- 2/27/03 7:54:58 PM

1,048. "IA03E0259" Type of Posting: "Instrument" Status: "Proposal"
Coltec Aerospace Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/27/03 7:54:59 PM

1,049. "IA03E0260" Type of Posting: "Instrument" Status: "Proposal"
Centerline (Windsor) Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 2/27/03 7:55:01 PM

1,050. "IA03E0261" Type of Posting: "Instrument" Status: "Proposal"
Van-Rob Stampings Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/27/03 7:55:02 PM

1,051. "IA03E0262" Type of Posting: "Instrument" Status: "Proposal"
Ontario Power Generation Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/27/03 7:55:15 PM

1,052. "IA03E0263" Type of Posting: "Instrument" Status: "Proposal"

Hartmann Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/27/03 7:55:24 PM

1,053. "IA03E0264" Type of Posting: "Instrument" Status: "Proposal"
Goodall Rubber Company of Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/27/03 7:55:26 PM

1,054. "IA03E0265" Type of Posting: "Instrument" Status: "Proposal"
Philip Services Inc. Approval for a waste disposal site.
- 2/27/03 7:55:27 PM

1,055. "IA03E0266" Type of Posting: "Instrument" Status: "Proposal"
Honeywell ASCa. Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/27/03 7:55:28 PM

1,056. "IA03E0267" Type of Posting: "Instrument" Status: "Proposal"
Architectural Stone Corp. Permit to take water
- 2/27/03 7:55:29 PM

1,057. "IA03E0268" Type of Posting: "Instrument" Status: "Proposal"
Ontario Power Generation Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/28/03 7:27:49 PM

1,058. "IA03E0269" Type of Posting: "Instrument" Status: "Proposal"
Devtek Aerospace Inc./Aerospatiale Devtek Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/28/03 7:27:50 PM

1,059. "IA03E0270" Type of Posting: "Instrument" Status: "Proposal"
Andrew Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/28/03 7:27:51 PM

1,060. "IA03E0271" Type of Posting: "Instrument" Status: "Proposal"
703635 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/28/03 7:27:53 PM

1,061. "IA03E0272" Type of Posting: "Instrument" Status: "Proposal"
Vinemount Quarries Division, Waterford Sand and Gravel Limited Permit to take water
- 2/28/03 7:27:54 PM

1,062. "IA03E0273" Type of Posting: "Instrument" Status: "Proposal"
L.W. Sanderson Resource Recovery Ltd. Approval for a waste disposal site.
- 2/28/03 7:27:55 PM

1,063. "IA03E0274" Type of Posting: "Instrument" Status: "Proposal"
Rivendell Golf Corporation Permit to take water
- 2/28/03 7:27:56 PM

1,064. "IA03E0275" Type of Posting: "Instrument" Status: "Proposal"
Total Automotive Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/28/03 7:27:57 PM

1,065. "IA03E0276" Type of Posting: "Instrument" Status: "Proposal"
Maple Leaf Foods Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/28/03 7:27:58 PM

1,066. "IA03E0277" Type of Posting: "Instrument" Status: "Proposal"
ABC Group Air Management Systems Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 2/28/03 7:27:59 PM

1,067. "IF03E4008" Type of Posting: "Instrument" Status: "Proposal"
Sonja Lockhart & Sandra Malmo, A proposal for provisional consent (no Official Plan in Place)
- 2/28/03 7:28:02 PM

1,068. "IF03E4007" Type of Posting: "Instrument" Status: "Proposal"
Clifford Malmo A proposal for provisional consent (no Official Plan in Place)
- 2/28/03 7:28:03 PM

1,069. "IF03E4009" Type of Posting: "Instrument" Status: "Proposal"
June Munson A proposal for provisional consent (no Official Plan in Place)
- 2/28/03 7:28:04 PM

1,070. "IT03E0050" Type of Posting: "Instrument" Status: "Proposal"
Oc Transpo Application for variances from the TSS Act, LFH Reg. 217/01
- 2/28/03 7:28:07 PM

1,071. "IF03E4010" Type of Posting: "Instrument" Status: "Proposal"
Reginald and Yvonne Crigger A proposal for provisional consent (no Official Plan in Place)
- 2/28/03 7:53:00 PM

1,072. "PF03E0002" Type of Posting: "Policy" Status: "Proposal"
Northwestern Ontario Smart Growth Panel Letter of Strategic Advice
- 3/3/03 7:12:34 PM

1,073. "PF03E0001" Type of Posting: "Policy" Status: "Proposal"
Public Consultation on the Central Ontario Smart Growth Panel's draft advice on a Smart Growth Strategy
- 3/3/03 7:12:40 PM

1,074. "IA03E0279" Type of Posting: "Instrument" Status: "Proposal"
ClubLink Capital Corporation Permit to take water
- 3/3/03 7:57:43 PM

1,075. "IA03E0280" Type of Posting: "Instrument" Status: "Proposal"
Brake Pro, Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/3/03 7:57:44 PM

1,076. "IA03E0281" Type of Posting: "Instrument" Status: "Proposal"
Lofthouse Brass Manufacturing Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/3/03 7:57:51 PM

1,077. "IA03E0282" Type of Posting: "Instrument" Status: "Proposal"

D. & D. Custom Steel Products Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/3/03 7:57:52 PM

1,078. "IA03E0283" Type of Posting: "Instrument" Status: "Proposal"
Pickseed Canada Inc Permit to take water
- 3/3/03 7:57:54 PM

1,079. "IA03E0284" Type of Posting: "Instrument" Status: "Proposal"
Forrest Estates Homes Sales Permit to take water
- 3/3/03 7:57:55 PM

1,080. "IA03E0285" Type of Posting: "Instrument" Status: "Proposal"
River Gold Mines Ltd. Approval for sewage works
- 3/3/03 7:57:56 PM

1,081. "IA03E0286" Type of Posting: "Instrument" Status: "Proposal"
1326733 Ontario Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/3/03 7:57:57 PM

1,082. "IA03E0287" Type of Posting: "Instrument" Status: "Proposal"
Mandarin Golf and Country Club Permit to take water
- 3/3/03 7:57:58 PM

1,083. "IA03E0288" Type of Posting: "Instrument" Status: "Proposal"
Greening Donald Co. Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/3/03 7:57:59 PM

1,084. "IA03E0278" Type of Posting: "Instrument" Status: "Proposal"
Woodbridge Foam Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 3/4/03 3:37:07 PM

1,085. "IB03E3025" Type of Posting: "Instrument" Status: "Proposal"
South Algonquin Forest Products, Issuance of a forest resource processing facility licence
- 3/4/03 7:45:13 PM

1,086. "IA03E0292" Type of Posting: "Instrument" Status: "Proposal"
Nestle Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/4/03 7:53:37 PM

1,087. "IA03E0293" Type of Posting: "Instrument" Status: "Proposal"
Woodbridge Foam Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 3/4/03 7:53:39 PM

1,088. "IA03E0295" Type of Posting: "Instrument" Status: "Proposal"
Toyota Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/4/03 7:53:41 PM

1,089. "IA03E0296" Type of Posting: "Instrument" Status: "Proposal"
G.E. Canada Inc. Permit to take water
- 3/4/03 7:53:42 PM

1,090. "IA03E0297" Type of Posting: "Instrument" Status: "Proposal"
Andy Sararas Permit to take water
- 3/4/03 7:53:43 PM

1,091. "IA03E0289" Type of Posting: "Instrument" Status: "Proposal"
521313 Ontario Inc. Approval for a waste disposal site.
- 3/4/03 7:53:44 PM

1,092. "IA03E0290" Type of Posting: "Instrument" Status: "Proposal"
Saratoga Potato Chip Company Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/4/03 7:53:45 PM

1,093. "IA03E0291" Type of Posting: "Instrument" Status: "Proposal"
Revenue Properties Company Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/4/03 7:53:46 PM

1,094. "IT03E0051" Type of Posting: "Instrument" Status: "Proposal"
Shell Canada Ptroducts Application for variances from the TSS Act, LFH Reg. 217/01
- 3/5/03 1:12:43 PM

1,095. "PA03E0003" Type of Posting: "Policy" Status: "Proposal"
Unknown title
- 3/5/03 2:47:57 PM

1,096. "IA03E0298" Type of Posting: "Instrument" Status: "Proposal"
Ontario Power Generation Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/5/03 8:54:39 PM

1,097. "IA03E0299" Type of Posting: "Instrument" Status: "Proposal"
Labatt Brewing Company Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/5/03 8:54:40 PM

1,098. "IA03E0300" Type of Posting: "Instrument" Status: "Proposal"
Beechgrove Country Foods Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/5/03 8:54:41 PM

1,099. "IA03E0301" Type of Posting: "Instrument" Status: "Proposal"
Minglehaze Investors Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/5/03 8:54:42 PM

1,100. "IA03E0302" Type of Posting: "Instrument" Status: "Proposal"
Cosma International Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/5/03 8:54:43 PM

1,101. "IA03E0303" Type of Posting: "Instrument" Status: "Proposal"
Iris Power Engineering Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/5/03 8:54:47 PM

1,102. "IA03E0304" Type of Posting: "Instrument" Status: "Proposal"

1543825 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/6/03 8:02:16 PM

1,103. "IA03E0066" Type of Posting: "Instrument" Status: "Proposal"
Chantler's Portable Services Limited Approval for a waste disposal site.
- 3/6/03 8:02:27 PM

1,104. "IA03E0305" Type of Posting: "Instrument" Status: "Proposal"
Quantum Remediation (Ontario) Inc. Approval for sewage works
- 3/6/03 8:02:29 PM

1,105. "IA03E0306" Type of Posting: "Instrument" Status: "Proposal"
Woodbridge Foam Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 3/6/03 8:02:30 PM

1,106. "IA03E0307" Type of Posting: "Instrument" Status: "Proposal"
Ab Cox Pontiac Buick GMC Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/7/03 8:01:33 PM

1,107. "IB03E3026" Type of Posting: "Instrument" Status: "Proposal"
Wayne M. Schwartz Construction Ltd., Approval of licensee proposed amendment to a site plan
- 3/10/03 8:20:17 PM

1,108. "IA03E0308" Type of Posting: "Instrument" Status: "Proposal"
786709 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/10/03 8:25:34 PM

1,109. "IA03E0309" Type of Posting: "Instrument" Status: "Proposal"
Marathon Pulp Inc. Permit to take water
- 3/10/03 8:25:35 PM

1,110. "IA03E0310" Type of Posting: "Instrument" Status: "Proposal"
Inmet Mining Corporation Permit to take water
- 3/10/03 8:25:36 PM

1,111. "IA03E0311" Type of Posting: "Instrument" Status: "Proposal"
Peter Edward Steel Permit to take water
- 3/10/03 8:25:37 PM

1,112. "IA03E0312" Type of Posting: "Instrument" Status: "Proposal"
All-Metal Machine Specialties Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/10/03 8:25:38 PM

1,113. "IA03E0313" Type of Posting: "Instrument" Status: "Proposal"
Atikokan Sportsmen Conservation Permit to take water
- 3/10/03 8:25:39 PM

1,114. "IA03E0314" Type of Posting: "Instrument" Status: "Proposal"
S.C. Johnson & Sons Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/10/03 8:25:40 PM

1,115. "IA03E0315" Type of Posting: "Instrument" Status: "Proposal"
F.G. Industrial Services Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/10/03 8:25:42 PM

1,116. "IT03E0052" Type of Posting: "Instrument" Status: "Proposal"
Dave Lippert Fuels Application for variances from the TSS Act, LFH Reg. 217/01
- 3/10/03 8:25:47 PM

1,117. "IA02E1308" Type of Posting: "Instrument" Status: "Proposal"
Data Business Forms Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/10/03 8:30:58 PM

1,118. "IA03E0294" Type of Posting: "Instrument" Status: "Proposal"
C. Villeneuve Construction Co. Ltd. Permit to take water
- 3/10/03 8:31:01 PM

1,119. "RA03E0007" Type of Posting: "Regulation" Status: "Proposal"
Proposed Amendments to Ontario's Refrigerants Regulation (O.Reg. 189/94).
- 3/10/03 8:53:57 PM

1,120. "RA03E0008" Type of Posting: "Regulation" Status: "Proposal"
Proposed Amendments to Ontario's Halon Fire Extinguishing Equipment Regulation (O.Reg. 413/94)
- 3/10/03 9:14:04 PM

1,121. "IA03E0316" Type of Posting: "Instrument" Status: "Proposal"
G&K Services Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:37:38 PM

1,122. "IA03E0317" Type of Posting: "Instrument" Status: "Proposal"
Maple Leaf Foods Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:37:39 PM

1,123. "IA03E0318" Type of Posting: "Instrument" Status: "Proposal"
Quebecor World Concord Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:37:41 PM

1,124. "IA03E0319" Type of Posting: "Instrument" Status: "Proposal"
Carr's Trailer Park Permit to take water
- 3/12/03 6:37:43 PM

1,125. "IA03E0320" Type of Posting: "Instrument" Status: "Proposal"
Niagara Employment Agency Inc. Approval for a waste disposal site.
- 3/12/03 6:37:57 PM

1,126. "IA03E0321" Type of Posting: "Instrument" Status: "Proposal"
Medical Technology (W.B.) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:37:58 PM

1,127. "IA03E0322" Type of Posting: "Instrument" Status: "Proposal"
Talisman Energy Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:38:19 PM

1,128. "IA03E0323" Type of Posting: "Instrument" Status: "Proposal"
Display Arts of Toronto Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:38:20 PM

1,129. "IA03E0324" Type of Posting: "Instrument" Status: "Proposal"
Canamera Foods Limited Partnership Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:38:21 PM

1,130. "IA03E0325" Type of Posting: "Instrument" Status: "Proposal"
Iogen Corproation Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:38:22 PM

1,131. "IA03E0326" Type of Posting: "Instrument" Status: "Proposal"
TK Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:38:23 PM

1,132. "IA03E0327" Type of Posting: "Instrument" Status: "Proposal"
Packaging Technologies (1991) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:38:24 PM

1,133. "IA03E0328" Type of Posting: "Instrument" Status: "Proposal"
Ducks Unlimited Canada Permit to take water
- 3/12/03 6:38:25 PM

1,134. "IA03E0329" Type of Posting: "Instrument" Status: "Proposal"
Three H Manufacturing Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 6:38:27 PM

1,135. "PB7E6009" Type of Posting: "Policy" Status: "Proposal"
Conservation Strategy for Old Growth Forest Ecosystems on Crown Lands in Ontario
- 3/12/03 6:38:28 PM

1,136. "IF03E9003" Type of Posting: "Instrument" Status: "Proposal"
The Township of McNab-Braeside Approval of an Official Plan Amendment
- 3/12/03 6:38:34 PM

1,137. "IA03E0330" Type of Posting: "Instrument" Status: "Proposal"
1399581 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 7:12:55 PM

1,138. "IA03E0331" Type of Posting: "Instrument" Status: "Proposal"
Sobeys Ontario Approval for use of a former waste disposal site.
- 3/12/03 7:12:56 PM

1,139. "IA03E0332" Type of Posting: "Instrument" Status: "Proposal"
Laurentian Motors Sudbury Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 7:12:57 PM

1,140. "IA03E0333" Type of Posting: "Instrument" Status: "Proposal"
4077687 Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 7:12:58 PM

1,141. "IA03E0334" Type of Posting: "Instrument" Status: "Proposal"
Blue Giant Equipment Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 7:12:59 PM

1,142. "IA03E0335" Type of Posting: "Instrument" Status: "Proposal"
Canarm Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 7:13:01 PM

1,143. "IA03E0336" Type of Posting: "Instrument" Status: "Proposal"
Can Star Auto Collision Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 7:13:02 PM

1,144. "IA03E0337" Type of Posting: "Instrument" Status: "Proposal"
Cytochroma Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 7:13:03 PM

1,145. "IA03E0338" Type of Posting: "Instrument" Status: "Proposal"
Yachiyo of Ontario Manufacturing Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/12/03 7:13:04 PM

1,146. "RA03E0010" Type of Posting: "Regulation" Status: "Proposal"
Proposed Amendment to Ontario Regulation 397/01 Emissions Trading
- 3/13/03 2:24:01 PM

1,147. "IA03E0339" Type of Posting: "Instrument" Status: "Proposal"
Ancon Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:06 PM

1,148. "IA03E0044" Type of Posting: "Instrument" Status: "Proposal"
Octagon Environmental Services Approval for a waste disposal site.
- 3/13/03 8:12:14 PM

1,149. "IA03E0340" Type of Posting: "Instrument" Status: "Proposal"
Atlas Copco Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:16 PM

1,150. "IA03E0341" Type of Posting: "Instrument" Status: "Proposal"
Carling Motors Co. Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:17 PM

1,151. "IA03E0342" Type of Posting: "Instrument" Status: "Proposal"
Lafarge Canada Inc. Permit to take water
- 3/13/03 8:12:18 PM

1,152. "IA03E0343" Type of Posting: "Instrument" Status: "Proposal"
Chembond Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:19 PM

1,153. "IA03E0344" Type of Posting: "Instrument" Status: "Proposal"
Unimin Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:20 PM

1,154. "IA03E0345" Type of Posting: "Instrument" Status: "Proposal"
ISP (Canada) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:21 PM

1,155. "IA03E0346" Type of Posting: "Instrument" Status: "Proposal"
Cooper-Standard Automotive Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:23 PM

1,156. "IA03E0347" Type of Posting: "Instrument" Status: "Proposal"
Apotex Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:24 PM

1,157. "IA03E0348" Type of Posting: "Instrument" Status: "Proposal"
E. L. Fordham Motors Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:25 PM

1,158. "IA03E0349" Type of Posting: "Instrument" Status: "Proposal"
Schlueter Chevrolet Oldsmobile Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:26 PM

1,159. "IA03E0350" Type of Posting: "Instrument" Status: "Proposal"
Koch-Glitsch (Canada) Company Approval for sewage works
- 3/13/03 8:12:27 PM

1,160. "IA03E0351" Type of Posting: "Instrument" Status: "Proposal"
Venest Industries Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:29 PM

1,161. "IA03E0352" Type of Posting: "Instrument" Status: "Proposal"
Dairyland Fluid Division Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:30 PM

1,162. "IA03E0353" Type of Posting: "Instrument" Status: "Proposal"
Eugene Collision Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/13/03 8:12:31 PM

1,163. "IB03E1002" Type of Posting: "Instrument" Status: "Proposal"
Tim Kobelka, Issuance of a permit to erect a building, structure or make an improvement
- 3/13/03 8:12:32 PM

1,164. "IB03E3027" Type of Posting: "Instrument" Status: "Proposal"
Forwell Limited, Approval of licensee proposed amendment to a site plan
- 3/13/03 8:12:33 PM

1,165. "IB03E3028" Type of Posting: "Instrument" Status: "Proposal"

Earl Beirnes, Approval of licensee proposed amendment to a site plan
- 3/13/03 8:12:34 PM

1,166. "RA03E0004" Type of Posting: "Regulation" Status: "Proposal"
Declaration Order Regarding the Ministry of Natural Resources Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario
- 3/13/03 9:01:04 PM

1,167. "IF03E3010" Type of Posting: "Instrument" Status: "Proposal"
County of Brant, Approval of an Official Plan Amendment
- 3/14/03 4:30:47 PM

1,168. "IA03E0354" Type of Posting: "Instrument" Status: "Proposal"
Dundee Realty Management Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:01:44 PM

1,169. "IA03E0355" Type of Posting: "Instrument" Status: "Proposal"
Dundee Realty Management Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:01:45 PM

1,170. "IA03E0356" Type of Posting: "Instrument" Status: "Proposal"
Hallmark Furniture Industries Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:02:14 PM

1,171. "IA03E0357" Type of Posting: "Instrument" Status: "Proposal"
Oxford Properties Group Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:02:15 PM

1,172. "IA03E0359" Type of Posting: "Instrument" Status: "Proposal"
Longhouse Village Inc. Permit to take water
- 3/14/03 8:02:17 PM

1,173. "IA03E0358" Type of Posting: "Instrument" Status: "Proposal"
Devair, Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:02:18 PM

1,174. "IA03E0360" Type of Posting: "Instrument" Status: "Proposal"
Carlini Collision Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:02:19 PM

1,175. "IA03E0361" Type of Posting: "Instrument" Status: "Proposal"
Brita (Canada) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:02:23 PM

1,176. "IA03E0362" Type of Posting: "Instrument" Status: "Proposal"
Architectural Precast Systems Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:02:24 PM

1,177. "IA03E0363" Type of Posting: "Instrument" Status: "Proposal"

Burlington Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:02:25 PM

1,178. "IA03E0364" Type of Posting: "Instrument" Status: "Proposal"
That Effect Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:02:27 PM

1,179. "IA03E0365" Type of Posting: "Instrument" Status: "Proposal"
Pratt & Whitney Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/14/03 8:02:28 PM

1,180. "IA03E0366" Type of Posting: "Instrument" Status: "Proposal"
CCL Label Approval for discharge into the natural environment other than water (i.e. Air)
- 3/17/03 8:17:47 PM

1,181. "IA03E0367" Type of Posting: "Instrument" Status: "Proposal"
Regency Auto Collision Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/17/03 8:17:48 PM

1,182. "IA03E0368" Type of Posting: "Instrument" Status: "Proposal"
Moynes Ford Sales Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/17/03 8:17:49 PM

1,183. "IA03E0369" Type of Posting: "Instrument" Status: "Proposal"
Rose City Ford Sales Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/17/03 8:17:50 PM

1,184. "IA03E0370" Type of Posting: "Instrument" Status: "Proposal"
Ball Packaging Products Canada Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/17/03 8:17:51 PM

1,185. "IA03E0371" Type of Posting: "Instrument" Status: "Proposal"
Nu Finish Auto Body Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/17/03 8:17:52 PM

1,186. "IA03E0372" Type of Posting: "Instrument" Status: "Proposal"
Fag Bearings Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/17/03 8:17:54 PM

1,187. "IA03E0373" Type of Posting: "Instrument" Status: "Proposal"
729374 Ontario Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/17/03 8:17:55 PM

1,188. "IA03E0374" Type of Posting: "Instrument" Status: "Proposal"
Mundet Canada Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/17/03 8:17:56 PM

1,189. "IA02E1528" Type of Posting: "Instrument" Status: "Proposal"

Fluorescent Lamp Recyclers (FLR) Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/18/03 8:05:13 PM

1,190. "IA03E0378" Type of Posting: "Instrument" Status: "Proposal"
Levi Strauss & Co. (Canada) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/18/03 8:05:30 PM

1,191. "IA02E1028" Type of Posting: "Instrument" Status: "Proposal"
H.L. Blachford, Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/18/03 8:05:37 PM

1,192. "IA03E0375" Type of Posting: "Instrument" Status: "Proposal"
Kamiskotia Snow Resort Permit to take water
- 3/18/03 8:05:50 PM

1,193. "IA03E0376" Type of Posting: "Instrument" Status: "Proposal"
The Pickering Harbour Company Ltd. Approval for a waste disposal site.
- 3/18/03 8:05:51 PM

1,194. "IA03E0377" Type of Posting: "Instrument" Status: "Proposal"
Kenneth R. Hughes Approval for discharge into the natural environment other than water (i.e. Air)
- 3/18/03 8:05:53 PM

1,195. "IF03E2002" Type of Posting: "Instrument" Status: "Proposal"
Brett Alan Montague A proposal for provisional consent (no Official Plan in Place)
- 3/18/03 8:06:01 PM

1,196. "IF03E4011" Type of Posting: "Instrument" Status: "Proposal"
Leblanc (Stubbs), Hirslund & Gould A proposal for provisional consent (no Official Plan in Place)
- 3/18/03 8:06:02 PM

1,197. "IA02E0665" Type of Posting: "Instrument" Status: "Proposal"
The Butcher Engineering Enterprises Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/19/03 7:00:21 PM

1,198. "PB03E7003" Type of Posting: "Policy" Status: "Proposal"
2003 Prescribed Burns
- 3/19/03 7:00:30 PM

1,199. "IA03E0379" Type of Posting: "Instrument" Status: "Proposal"
Goodrich Landing Systems Services Approval for discharge into the natural environment other than water (i.e. Air)
- 3/19/03 8:15:04 PM

1,200. "IA03E0380" Type of Posting: "Instrument" Status: "Proposal"
Aecon Holdings Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/19/03 8:15:18 PM

1,201. "IA03E0381" Type of Posting: "Instrument" Status: "Proposal"
Bay of Quinte Country Club Limited Permit to take water
- 3/19/03 8:15:19 PM

1,202. "IA03E0382" Type of Posting: "Instrument" Status: "Proposal"
Goldcorp Inc. Approval for sewage works
- 3/19/03 8:15:29 PM

1,203. "IA03E0383" Type of Posting: "Instrument" Status: "Proposal"
Goldcorp Inc. Permit to take water
- 3/19/03 8:15:30 PM

1,204. "IA03E0385" Type of Posting: "Instrument" Status: "Proposal"
Kindred Industries Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/20/03 8:04:34 PM

1,205. "IA03E0386" Type of Posting: "Instrument" Status: "Proposal"
Walter Hnatuik Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/20/03 8:04:35 PM

1,206. "IA03E0387" Type of Posting: "Instrument" Status: "Proposal"
Eric Keith Thomas Approval for discharge into the natural environment other than water (i.e. Air)
- 3/20/03 8:04:45 PM

1,207. "IA03E0388" Type of Posting: "Instrument" Status: "Proposal"
Decoma International Corp. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/20/03 8:04:46 PM

1,208. "IA03E0389" Type of Posting: "Instrument" Status: "Proposal"
Bruce Krupp Permit to take water
- 3/20/03 8:04:47 PM

1,209. "IA03E0390" Type of Posting: "Instrument" Status: "Proposal"
Imperial Oil Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/20/03 8:04:48 PM

1,210. "IA03E0391" Type of Posting: "Instrument" Status: "Proposal"
Procter & Gamble Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/20/03 8:04:49 PM

1,211. "IA03E0392" Type of Posting: "Instrument" Status: "Proposal"
Matsu Manufacturing Inc. and Matcor Automotive Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/20/03 8:04:50 PM

1,212. "IA03E0393" Type of Posting: "Instrument" Status: "Proposal"
Gamma Foundries Company Approval for discharge into the natural environment other than water (i.e. Air)
- 3/20/03 8:04:52 PM

1,213. "IA03E0394" Type of Posting: "Instrument" Status: "Proposal"
BP Canada Energy Company - Sarnia Fractional Plant Order for controlling contaminant discharge.
- 3/20/03 8:04:53 PM

1,214. "IF03E5014" Type of Posting: "Instrument" Status: "Proposal"
The Town of Mississippi Mills Approval of an Official Plan Amendment
- 3/20/03 8:04:58 PM

1,215. "IB03E3029" Type of Posting: "Instrument" Status: "Proposal"
Johnston Brothers (Bothwell) Limited, Approval of licensee proposed amendment to a site plan
- 3/21/03 5:02:39 PM

1,216. "RO03E0002" Type of Posting: "Regulation" Status: "Proposal"
The proposed Regulation amends O. Reg. 82/95 (as amended by Regulations 18/02, 326/98 and 364/00 made under the Energy Efficiency Act) by setting minimum efficiency levels for two products and updating the referenced national standard for seven products.
- 3/21/03 5:02:40 PM

1,217. "RA03E0005" Type of Posting: "Regulation" Status: "Proposal"
Operating Agreement between the Minister of the Environment and Waste Diversion Ontario.
- 3/21/03 7:16:10 PM

1,218. "IA03E0395" Type of Posting: "Instrument" Status: "Proposal"
Parker Hannifin Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/21/03 7:16:12 PM

1,219. "IA03E0396" Type of Posting: "Instrument" Status: "Proposal"
Trimco Woods Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/21/03 7:16:13 PM

1,220. "IA03E0397" Type of Posting: "Instrument" Status: "Proposal"
GATX Rail Canada Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 3/21/03 7:16:14 PM

1,221. "IA03E0398" Type of Posting: "Instrument" Status: "Proposal"
Washington Mills Electro Minerals Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 3/21/03 7:16:15 PM

1,222. "IA03E0399" Type of Posting: "Instrument" Status: "Proposal"
Ann McFee Permit to take water
- 3/21/03 7:16:16 PM

1,223. "IA03E0400" Type of Posting: "Instrument" Status: "Proposal"
1112185 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/21/03 7:16:17 PM

1,224. "IA03E0401" Type of Posting: "Instrument" Status: "Proposal"
St. Marys Cement Inc. (Canada) Approval for discharge into the natural environment other than water (i.e. Air)
- 3/21/03 7:16:18 PM

1,225. "IF03E4012" Type of Posting: "Instrument" Status: "Proposal"
Victor S. Savino A proposal for provisional consent (no Official Plan in Place)
- 3/21/03 10:45:30 PM

1,226. "IF03E9004" Type of Posting: "Instrument" Status: "Proposal"
The Township of Dysart et al Approval of an Official Plan Amendment
- 3/21/03 10:45:31 PM

1,227. "RA03E0011" Type of Posting: "Regulation" Status: "Proposal"

Waste Diversion Program for Blue Box Waste / Designating Regulation for Stewardship Ontario
- 3/24/03 2:36:43 PM

1,228. "PB03E3002" Type of Posting: "Policy" Status: "Proposal"
Resources Report - Southcentral Region Forest Strategy
- 3/24/03 5:47:34 PM

1,229. "IA03E0402" Type of Posting: "Instrument" Status: "Proposal"
1558329 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/24/03 8:10:10 PM

1,230. "IA03E0403" Type of Posting: "Instrument" Status: "Proposal"
Woodbridge Foam Corporation Approval for discharge into the natural environment other than water (i.e. Air)
- 3/24/03 8:10:11 PM

1,231. "IA03E0404" Type of Posting: "Instrument" Status: "Proposal"
Quantum Remediation (Ontario) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/24/03 8:10:12 PM

1,232. "IA03E0405" Type of Posting: "Instrument" Status: "Proposal"
Quantum Remediation (Ontario) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/24/03 8:10:42 PM

1,233. "IA03E0406" Type of Posting: "Instrument" Status: "Proposal"
998808 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/24/03 8:10:44 PM

1,234. "IB03E3007" Type of Posting: "Instrument" Status: "Proposal"
Fast Rock Inc. , Approval of licensee proposed amendment to a site plan
- 3/25/03 2:26:04 PM

1,235. "IF03E2003" Type of Posting: "Instrument" Status: "Proposal"
Judith Tennant McBain, A proposal for provisional consent (no Official Plan in Place)
- 3/25/03 6:37:30 PM

1,236. "IA03E0407" Type of Posting: "Instrument" Status: "Proposal"
Coley Pharmaceutical Group, Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/25/03 8:29:45 PM

1,237. "IA03E0409" Type of Posting: "Instrument" Status: "Proposal"
Imperial Oil Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/25/03 8:29:47 PM

1,238. "IA03E0410" Type of Posting: "Instrument" Status: "Proposal"
1238094 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/25/03 8:29:52 PM

1,239. "IA03E0408" Type of Posting: "Instrument" Status: "Proposal"

Walt's Paint & Body Shop Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/25/03 8:29:53 PM

1,240. "IA03E0411" Type of Posting: "Instrument" Status: "Proposal"
Diamond Coat Shutters Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/25/03 8:29:54 PM

1,241. "IA03E0412" Type of Posting: "Instrument" Status: "Proposal"
St. Andrew Goldfields Ltd. Permit to take water
- 3/25/03 8:29:55 PM

1,242. "IA03E0413" Type of Posting: "Instrument" Status: "Proposal"
Dow Chemical Canada Incorporated Approval for discharge into the natural environment other than water (i.e. Air)
- 3/25/03 8:29:56 PM

1,243. "IA03E0414" Type of Posting: "Instrument" Status: "Proposal"
Precise Castings (2001) Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/25/03 8:29:57 PM

1,244. "IF03E2004" Type of Posting: "Instrument" Status: "Proposal"
Township of McKellar Approval of an Official Plan Amendment
- 3/25/03 8:29:58 PM

1,245. "RO03E0001" Type of Posting: "Regulation" Status: "Proposal"
A Proposal to Implement a Generation Attribute Certificate Tracking System to support the Environmental Labelling Program.
- 3/26/03 6:38:00 PM

1,246. "IA03E0415" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/26/03 8:11:47 PM

1,247. "IA03E0416" Type of Posting: "Instrument" Status: "Proposal"
Vickers Environmental Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/26/03 8:11:58 PM

1,248. "IA03E0418" Type of Posting: "Instrument" Status: "Proposal"
Derek's Ltd. operating as Zippy Clean Restoration Approval for discharge into the natural environment other than water (i.e. Air)
- 3/26/03 8:11:59 PM

1,249. "IA03E0417" Type of Posting: "Instrument" Status: "Proposal"
Trillium Health Care Products Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/26/03 8:12:01 PM

1,250. "IA03E0419" Type of Posting: "Instrument" Status: "Proposal"
KSR International Co. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/26/03 8:12:02 PM

1,251. "IA03E0420" Type of Posting: "Instrument" Status: "Proposal"
CRA Developments (1999) Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/26/03 8:12:03 PM

1,252. "IA03E0421" Type of Posting: "Instrument" Status: "Proposal"
Duck's Unlimited Canada Permit to take water
- 3/26/03 8:12:04 PM

1,253. "RA03E0002" Type of Posting: "Regulation" Status: "Proposal"
Brownfields Draft Regulation - Relating to the Filing of a Record of Site Condition
- 3/27/03 8:35:11 PM

1,254. "IA02E1274" Type of Posting: "Instrument" Status: "Proposal"
Hidden Hitch of Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/27/03 8:35:26 PM

1,255. "IA03E0427" Type of Posting: "Instrument" Status: "Proposal"
Baycoat Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/27/03 8:35:28 PM

1,256. "IA03E0422" Type of Posting: "Instrument" Status: "Proposal"
Elliot Lake Golf and Country Club Permit to take water
- 3/27/03 8:35:41 PM

1,257. "IA03E0423" Type of Posting: "Instrument" Status: "Proposal"
Smelter Bay Aggregates Inc. Permit to take water
- 3/27/03 8:35:42 PM

1,258. "IA03E0424" Type of Posting: "Instrument" Status: "Proposal"
Fuchs Lubricants Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/27/03 8:35:43 PM

1,259. "IA03E0425" Type of Posting: "Instrument" Status: "Proposal"
Smelter Bay Aggregates Inc. Permit to take water
- 3/27/03 8:35:44 PM

1,260. "IA03E0426" Type of Posting: "Instrument" Status: "Proposal"
Protec Finishing Limited Approval for discharge into the natural environment other than water (i.e. Air)
- 3/27/03 8:35:45 PM

1,261. "IB03E3030" Type of Posting: "Instrument" Status: "Proposal"
Hard Rock Paving Company Limited, Approval of licensee proposed amendment to a site plan
- 3/27/03 8:35:46 PM

1,262. "IA03E0428" Type of Posting: "Instrument" Status: "Proposal"
Ventra Plastics - Peterborough Approval for discharge into the natural environment other than water (i.e. Air)
- 3/28/03 7:25:54 PM

1,263. "IA03E0429" Type of Posting: "Instrument" Status: "Proposal"
Domtar Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/28/03 7:26:21 PM

1,264. "IA03E0430" Type of Posting: "Instrument" Status: "Proposal"
Lakhram Chatterpaul Approval for discharge into the natural environment other than water (i.e. Air)
- 3/28/03 7:26:22 PM

1,265. "IA03E0431" Type of Posting: "Instrument" Status: "Proposal"
DDM Plastics Company Approval for discharge into the natural environment other than water (i.e. Air)
- 3/28/03 7:26:24 PM

1,266. "IA03E0432" Type of Posting: "Instrument" Status: "Proposal"
Intier Automotive Closures Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/28/03 7:26:25 PM

1,267. "IA03E0433" Type of Posting: "Instrument" Status: "Proposal"
Dow AgroSciences Canada Inc. Classification, reclassification or declassification of a Pesticide under Ontario Regulation 914
- 3/31/03 7:38:42 PM

1,268. "IA03E0434" Type of Posting: "Instrument" Status: "Proposal"
Dana Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/31/03 7:38:43 PM

1,269. "IA03E0435" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited Permit to take water
- 3/31/03 7:38:44 PM

1,270. "IA03E0436" Type of Posting: "Instrument" Status: "Proposal"
Falconbridge Limited Permit to take water
- 3/31/03 7:38:45 PM

1,271. "IA03E0437" Type of Posting: "Instrument" Status: "Proposal"
Canplas Industries Ltd. Order for preventative measures.
- 3/31/03 7:38:47 PM

1,272. "IA03E0438" Type of Posting: "Instrument" Status: "Proposal"
Allandale Community Development Corp. Order for preventative measures.
- 3/31/03 7:38:48 PM

1,273. "IA03E0439" Type of Posting: "Instrument" Status: "Proposal"
ITW Canada Management Inc./Gestion ITW Canada Permit to take water
- 3/31/03 7:38:49 PM

1,274. "IA03E0440" Type of Posting: "Instrument" Status: "Proposal"
Re/Defining Water Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/31/03 7:38:50 PM

1,275. "IA03E0441" Type of Posting: "Instrument" Status: "Proposal"
Petro-Canada Order for preventative measures.
- 3/31/03 7:38:51 PM

1,276. "IA03E0442" Type of Posting: "Instrument" Status: "Proposal"
Envirocar Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air)
- 3/31/03 7:38:52 PM

1,277. "IB03E2044" Type of Posting: "Instrument" Status: "Proposal"
DBC Aggregates Ltd., Approval of licensee proposed amendment to a site plan
- 3/31/03 7:38:53 PM

1,278. "PE03E4510" Type of Posting: "Policy" Status: "Proposal"
Regional Transportation Directions: Intelligent Transportation Systems (Draft) Report
- 3/31/03 7:38:54 PM

1,279. "PF03E0003" Type of Posting: "Policy" Status: "Proposal"
Northeastern Ontario Smart Growth Panel draft Letter of Strategic Advice.
- 3/31/03 7:39:01 PM

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